

Kaliae

Our Vision for the Future

Conservation District Use Application & Environmental Assessment

TMK 1-2-01:04

December 19, 2005

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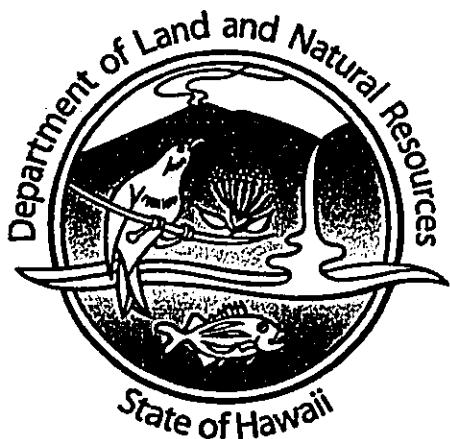
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Conservation District Use Application (CDUA)



For DLNR Use	
File #	
Reviewed by	
Date	
Accepted by	
Date	
180-Day Exp. EA/EIS Required	
PH Required	
Decision	
Date	

Project Location/Address: *Kaliae, Koolau, Maui, Hawaii*

District: *Hana*

Island/County: *Maui*

Subzone: *General Conservation*

Tax Map Key(s) (2) *1-2-001*

Total Area of Parcel
in sq. ft or acres: *63 acres*

Area of Proposed Use
in sq. ft. or acres: *3.4 acres*

Commencement Date: *June 1, 2006*

Completion Date: *June 1, 2008*

Indicate which of the following approvals are being sought, as specified in the Hawaii Administrative Rules (HAR), Chapter 13-5.

- ☒ Board Permit
- ☐ Departmental Permit
- ☐ Emergency Permit
- ☐ Temporary Permit
- ☐ Site Plan Approval

APPLICANT

Legal Name: *David Niehaus & Deborah Mathias*
Street Address: *1630 PIIHIOLO ROAD*
City, State and Zip+4 Code: *MAKAWAO, HI 96768*
Mailing Address: *1630 PIIHIOLO ROAD*
City, State and Zip+4 Code: *MAKAWAO, HI 96768*
Contact Person & Title: *David Niehaus*
Phone No.: *(808) 572-6180* Fax No.: ()

Email: _____

Interest in Property: *Owner*

*Signature _____ Date _____

*If for a Corporation, Partnership, Agency or Organization, must be signed by an authorized officer.

AGENT

Name: _____

Mailing Address: _____

City, State and Zip+4 Code: _____

Contact Person & Position: _____

Phone No.: ()

Fax No.: ()

Email: _____

Signature _____ Date _____

PROPERTY OWNER(S) (If other than the applicant)

Legal Name: *Neil Struminger*

Street Address: *1050 Piiholo Road*

City, State and Zip+4 Code: *Makawao, HI 96768*

Mailing Address: *same as above*

City, State and Zip+4 Code: _____

Contact Person & Title: *Neil Struminger, Co-owner*

Phone No.: *(808) 573-5776*

Fax No.: ()

Email: _____

Relationship to applicant: *Co-owner*

Signature _____ Date _____

CONTRACTOR

Name: *David Niehaus*

Contractor I.D. # *ABC12423*

Scope of Work: *Construction of SFD, garage and agricultural shed*

Mailing Address: *1630 PIIHIOLO ROAD, MAKAWAO, HI 96768*

Contact Person & Position Title: *David Niehaus*

Phone No.: *(808) 572-1680*

Fax No.: ()

Email: _____

Emergency Contact Information

Company/Organization Name: _____

Contact Person and Title: *Frank Hollister*

Phone No.: *(808) 575-2129*

Phone No.: *(808) 250-2129*

PRIOR CONSERVATION DISTRICT USE PERMITS (CDUP)

Preliminary approval for a 5,000 square foot residence and multiple horse stables was granted to a prior owner, Michael Boteilho, in 1993.

PROPOSED USE

Total Area of Proposed Use: 3.4 acres

Describe the proposed use in detail. Include Secondary improvements such as grading, septic tank placement, utilities, roads, driveways, fences, landscaping, etc. Illustrate general location of improvements on a TMK map; include preliminary architectural renderings with elevations and building footprints with application. Include existing (before) and proposed (after) graphics. If the parcel is or has been the subject of a violation, please include the violation number.

Our family has owned and operated Native Hawaiian Tree Source on Maui for over ten years. Our family company propagates only plants that were here before mankind. Native Hawaiian Tree Source and the reforestation of Maui with native plants is our retirement passion. The applicants, David Niehaus and Deborah Mathias (husband and wife) propose to construct a 3500 square foot Single Family Dwelling (SFD), a 768 square foot garage, a 700 square foot swimming pool, a 3600 square foot agricultural shed, and two shade cloth houses. Our proposal also includes plans to re-forest 3 acres of the property with native Hawaiian trees and shrubs. (See Site Plan Map - M2) In our proposed shade cloth houses, we intend to propagate native trees and shrubs for the reforestation of the proposed 3 acres. The native plants to be propagated will be planted directly on the parcel. We are requesting our CDUA and Environmental Assessment for the SFD, agriculture structures (2 shade cloth houses and agricultural shed), and the reforestation of the 3 acres with native trees, shrubs, and ground cover. We are also requesting an after-the-fact CDUA for the existing water-catchment tent structure and four 2000 gallon tanks. Our intention is to replace the existing catchment tents with an agricultural shed (with new catchment system) upon completion of the project. We anticipate that we will start planting the upper story trees in the first year. The lower story trees will not be able to be planted until the upper story trees have grown in. This will take approximately four years. No commercial activities are planned. Our goal is to someday apply for another CDUA for the re-forestation of an additional 15 acres of noxious species with native plants.

The proposed structures are as follows:

Single Family Residence

One story, single family, three bedroom, three bathroom, 3500 square feet to be built well mauka of the King's Trail. Green roof with neutral earth-tone exterior. The architecture will be a simple tropical design. The applicants intent is to design a home that is compatible with the surrounding environment. Minimal site grading will occur, primarily for improvements in the existing driveway and for footprint of the garage. Landscaping will be used to soften the visual impact of the proposed structures. All

landscaping used will be indigenous to Hawaii and to this specific location.

Garage

768 square feet detached but near the residence (see Plot Plan – P1). The design and color will match the SFR.

Swimming Pool

700 square feet

In total, all of the structures for the SFR will not exceed the 5000 square foot maximum developable area for lots larger than one acre. None of the structures will exceed the 25 foot height limit.

Water Storage Tanks

Two 30,000 gallon tanks supplied by rain water catchment system off of house, agricultural shed and garage. The tanks will be painted earth tones.

Wastewater Treatment System

An individual wastewater treatment system is proposed for domestic wastewater disposal. The system will meet all applicable County and State regulations.

Agriculture Structures

To be built at the top of the property.

Three 30 x 60 foot tents that are currently present at the top of the property to be kept up temporarily for water catchment and tools, fertilizer, and farm equipment storage. This structure has a canvas roofing with no exterior walls. This structure will be replaced with a permanent agricultural shed within two years. Allowing the temporary existing structure will allow us to have water for the proposed re-forestation project and to keep the construction dust under control while building. It will allow us to begin our green house propagation and planting while we simultaneously build the SFR. An after the fact CDUA for this structure and the four 2000 gallon water storage tanks is requested.

Agricultural Shed 60 feet by 60 feet

This structure will replace the temporary tent structure. This structure will have open sides, a green metal roof, and a secure room for tools and fertilizers. The area around the shed will be landscaped with indigenous trees and shrubbery. The roof will be used for rain water catchment to supply water for the proposed re-forestation project and native plant propagation.

Shade cloth houses

Two 20 feet by 60 feet shade cloth houses for propagating and harboring native trees.

Driveway

There are four existing dirt roads on the property that were previously used to service the

property when the land was used for ranching. One of these dirt roads will be used to access the single family dwelling. We plan to surface the existing dirt road with four-inch gravel road base. In areas of greater than 20% grade, concrete surfacing is planned.

Past Violations:

MA-001 subject: Illegal activity within a conservation district... no permit issued for grading -- 10/29/1992 issued to Michael Boteilho. 1/11/1993 Letter from Fred Levy to William Paty, Chairperson DLNR re: request to proceed with grading, disking seeding and use a temporary storage container. Letter from William Paty, Chairperson, DLNR re: authorization to re-plant grubbed area and to continue non-conforming grazing related land use activities.

MA-02-21

Docare: MA-01-637 & MA-02-873

July 26, 2002: Failure to obtain the appropriate approval for grading/grubbing, landscaping and agriculture, construction of structures and erosion control.

SCAP-MA-352 December 30, 2002 After the fact Stream Channel Alteration and Stream Diversion Works Permit (SCAP-MA-352) Approval for a temporary after the fact stream channel alteration and stream diversion permit to implement a land restoration plan with water from Kopiliula Stream.

May 15, 2003: Restoration Plan submitted by Gene and Lajon Weaver
March 12, 2003 Letter from Peter Young, DLNR accepting the Weaver's Restoration Plan.

April 14, 2005: Letter from Sam Lemmo to the Weavers requesting an update of the restoration plan re enforcement case MA -02-21.

May 31, 2005: Change of ownership of TMK :1-2-001:004 from Weaver to present owners Mathias/Niehaus /Struminger

June 23, 2005: Removal of Stream Diversion... July 18, 2005 Letter to Dean Nakano with *before* and *after* stream photos showing removal of pipe for once used for stream diversion and a request that the previous stream diversion violation committed by the Weavers (prior owners) be considered resolved.

July 6, 2005: Onsite inspection Dawn Hagger, DLNR

July 30, 2005: Completion of Removal of previous owners' two yurts, outhouse, and bath house. Removal of two road graders, house trailer, four beat up trucks, broken motorcycles, refrigerators, stoves, mattresses, garbage, piles of lumber and old tools.

August 10, 2005 Letter to the DLNR requesting that an onsite inspection be made and that all violations by former owners be considered cleared

CONSERVATION DISTRICT REQUIREMENTS

Is the proposed land use consistent with the purpose of the conservation district?

HARS 13-5-1

The purpose of the conservation district is to conserve, protect and preserve the important natural resources of the state.

The long term goal of Native Hawaiian Tree Source will be to reforest a portion of Kaliae with native trees. Our plan is consistent with the goals of the conservation district.

Is the proposed use consistent with the objectives of the subzone of the land in which the use will occur?

The subject parcel is located within the State Land Use Conservation District, General Subzone.

HARS 13-5-14(2) Lands suitable for farming, flower gardening, operation of nurseries or orchards, grazing; including facilities accessory to these uses when the facilities are compatible with the natural physical environment.

Our plan for construction of an SFD, shade cloth houses, agricultural shed and long term goal of reforestation of indigenous trees at Kaliae is compatible with the General Subzone.

Does the proposed land use comply with the provisions and guidelines contained in Chapter 205A, Hawaii Revised Statutes (HRS) entitled "Coastal Zone Management" where applicable?

The proposed site is located within the Coastal Zone Special Management Area (SMA); it is therefore subject to the SMA Rules and Regulations of the County of Maui. However, at the discretion of the County Planning Department, the construction of a Single Family Residence less than 3500 square feet (such as that which the Applicants are proposing) is typically exempt from obtaining an SMA permit. The proposed residence is not part of a larger development planned for the area. *Per Section 205 A-22 HRS, a "development" does not include use of land for the purpose of cultivating, planting growing and harvesting plants, crops, trees and other agriculture, horticulture, or forestry products or animal husbandry.* The agriculture structures may require a SMA minor permit-these structures will have a valuation of under \$100,000 and should be exempt from an SMA use permit. No structures will be built near the shoreline. Access to the beach via the King's highway will be protected and preserved. No seawalls will be built. The structures will not be readily visible from the shoreline.

Describe how the proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.

The proposed development will not use any water other than rain catchment. No irrigation system is planned as the rainfall is 90 to 160 inches per year. Natural resources will be replenished with the planting of Native Hawaiian trees on the proposed 3 acres - currently overgrown with noxious plants. The streams bordering the property have endemic mollusks, gobioid fish and prawns. Minimal grading of the land is anticipated during construction, so run off will be minimal. The owners have requested to

leave the temporary water-catchment tent structure and the four small tanks (after-the-fact CDUA) in order to have water from day one of construction, so that construction dust will be minimized and for native plant propagation in the two proposed shade cloth houses. Potential short term adverse effects on the surrounding area such as noise, air quality or drainage impacts can be almost eliminated with proper construction measures. The applicants will apply Best Management Practices during the construction phases. All constructions will be done by a fully licensed and insured contractor.

Describe how the proposed land use including buildings, structures and facilities, will be compatible with the locality and surrounding areas, and to the physical conditions and capabilities of the specific parcel or parcels.

The parcel is surrounded by state forest so there are no close neighbors. The agriculture buildings located at the top of the property will be landscaped with Native Hawaiian trees and shrubs. The single family dwelling will be located well mauka of the King's Trail. All structures will be in earthen tones. The structures will not be visible from the Hana Highway. The single family dwelling will be one story and have a tropical design. The structures, including lighting will be constructed so as to blend with the surrounding environment. The SFD will not be visible from the coastline. The construction of a SFD will not place an unusual burden upon any public agencies or public utility providers servicing the area. The proposed project is low density: one single family dwelling to 63 acres.

Describe how the existing physical and environmental aspects of the land, such as natural beauty and open space will be preserved or improved upon.

Because the SFD and agriculture structures will not be visible from the Hana Highway nor the coastline, the area's natural beauty and open space will be unaffected. In addition, we will be improving the physical environment by reforesting 3 acres of noxious weeds with a true native forest.

If applicable, describe how subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District

Not applicable

Describe how the proposed land use will not be detrimental to the public health, safety and welfare.

The construction of a single family dwelling and the growing of Native Hawaiian Trees on the subject property will not unreasonably burden public agencies to provide additional necessary urban amenities, services and/or facilities.

Schools: the construction of a single family dwelling will not increase the number of students attending Hana Elementary/High School to any measurable extent and will not adversely impact the capacity of the school.

Wastewater Disposal: There are no County sewage facilities for this area. the proposed dwellings on the subject property will utilize a septic system approved by the Department of Health State of Hawaii for disposal of waste water.

Water : Water will be obtained from catchment of rain water.

Police and Fire Protection: The area is currently serviced by the Hana Police and Fire

Departments. The construction of a SFD and growing of trees will not in and of itself create an unreasonable demand for expansion of either police or fire services.

Roads: The subject parcel is serviced by Hana Highway. A SFD and growing of Native Hawaiian Trees will not substantially increase traffic on the Hana Highway

Fire Protection: The applicant will build there own fire protection with the water storage tanks

ADDITIONAL INFORMATION

If applicable, provide the identity and scope of valued cultural, historical and natural resources in which traditional and customary native Hawaiian rights are exercised in the area

The main cultural and traditional practices that take part in this area are fishing and gathering on the shoreline below the property. The cliffs on this property are 300 feet above sea level ; therefore fishing does not occur on the said property. The property is an access for fisherman to the shoreline. The King's trail is the public access to the shoreline but it is almost impassable due to the over growth of invasive species. The property has been used for cattle grazing since before statehood. There are no known Native or Polynesian introduced plants except for a few scattered ohias. There are also two endangered species of grasses occurring on the coastline below the cliffs, beyond the property line and very far from the proposed SFD site (see Resources Map – M8).

Identify the extent to which those resources, including traditional and customary native Hawaiian rights will be affected or impaired by the proposed action

Fishing and gathering along the shoreline will be improved if the King's trail is maintained. The applicant remains committed to allow passage on the King's Trail to the beaches and shoreline.

What feasible action, if any, could be taken by the Board of Land and Natural Resources in regards to your application to reasonably protect native Hawaiian rights?

Assist the applicants in identifying, insuring, and maintaining the King's Trail, so that it can be utilized by the community for beach access and for fishing and gathering.

Does the proposed land use have an effect (positive/ negative) on public access to and along the shoreline or along any public trail?

The King's Highway is the public access to the shoreline. The proposed project is being built well mauka of the King's Highway purposely so that it will not have an effect on the public's access to the beach. At present the King's Highway is over-grown and virtually impassable. If the applicant is allowed to maintain the King's highway under the supervision and with assistance from the DLNR the proposed use will have a positive effect on beach access.

Does the proposed use have an effect (positive/negative) on beach processes?

The proposed use is far from the shoreline. There will be no impact on beach processes.

Will the proposed use cause any increased runoff or sedimentation?

We have designed the proposed SFD and garage to minimize the need for any grading. The agricultural shed and shade cloth houses will require absolutely no grading. The SFD will be built on post and pier to avoid the need for grading. In order to minimize the impact on the proposed building site, we have also chosen to detach the garage from the SFD, taking advantage of the natural contour of the surrounding terrain. The proposed building site slopes away from the cliff edge toward the middle of the 63 acres – and therefore will have no effect on the Kopiliula stream. Construction will be done during the dryer season. Specific attention will be paid to those areas with potential for drainage run off. Control of erosion at construction sites through the use of construction silt fences and watering the construction sites frequently during the work phase. Erosion should be minimal because of the gentle slope of the property. All areas disturbed during construction will be revegetated with indigenous trees and shrubs. A retention basin will be built at the house construction site to prevent any erosion. The surface soil layer is dark brown silty clay about 9 inches thick. The upper part of the subsoil is about 18 inches thick and is dark reddish brown silty clay that has a sub angular blocky structure. The lower part of the subsoil is dark gray silky clay loam. The substratum is soft weathered basic igneous rock. The soil is strongly acidic in the surface layer and strongly to medium acidic in the subsoil. Water permeability is moderately rapid. Run off is slow and erosion hazard is slight. Rain fall has been recorded from 90 inches to 150 inches per annum.

Will the proposed use cause any visual impact on any individual or community?

The property is surrounded by 5000 acres of state forest. The proposed use cannot be visualized from Hana Highway. The SFD and agriculture structures will not be visible from the coastline. Our plan to reforest 3 acres with indigenous trees can only be a positive impact on the community.

EXISTING SITE INFORMATION

Are there any existing structures on the property? Yes

Describe and include / illustrate on a map entitled existing structures.

There is a canvas tent structure consisting of three 30x60 foot canvas roofs with open walls (see Existing Structures Map – M4). It is used to collect rain through a water catchment system that flows to four 2000 gallon storage tanks. The applicants are asking for an after-the-fact CDDA for this tent structure. This would enable the applicant to have immediate access to water which will be necessary during construction to control dust and erosion at construction sites and to begin planting and propagating Native trees. Before completion of the project, this structure will be taken down, and be replaced by a permanent 60 x 60 foot structure with open sides (except for a small enclosed storage room). Allowing the existing tents and storage tanks to remain while we complete the

project will enable the applicants to have the water needed for control of dust during construction and for planting and propagating of the native plants to be used in landscaping and reforestation of the proposed 3 acres.

Will any of these structures be demolished or removed? If yes, describe how. Please illustrate on a map entitled structure to be demolished or removed.

The tent catchment structure removal will be one of the last phases of construction. It will not be complicated to remove as it will only require taking down the canvas roof and removing the supporting wooden beams. After it has been removed the new storage shed with the permanent catchment system will be constructed at the same site (see Site Map – M2).

Has the parcel been graded or landscaped? Yes

If, yes, describe below. Please describe cubic yards affected and/or area of landscaping on a map entitled previously graded or landscaped.

The entire property has been graded, grubbed and seeded multiple times in the last sixty years. The entire property has been used for cattle and horse grazing since before statehood and the practice of grading and grubbing was used to control invasive species and to keep the pasture grasslands in good shape for the agriculture purposes. Two past violations have been issued for grading and grubbing. The most recent violation Enforcement Case MA-02-21 July 26, 2002 had a restoration plan that was completed on May 6, 2005. In a letter dated May 6, 2005 from Sammuel Lemmo to the previous owners (Gene Weaver and Lajon Dumas), the OCCL notes that the restoration plan for Enforcement Case MA-01-21 is satisfactory.

MA -93-077 October 1992 that grading had occurred over 60% of the property.

2/1/1993 Letter from William Paty, DLNR to Fred Levy re: authorization to re-plant grubbed area and to continue non-conforming land use activities (grazing).

Describe existing utilities. Include water, telephone drainage, and sewage. Please illustrate on a map entitled existing utilities.

Water is presently from rain water catchment off the three 30x60 foot tents and is stored in four 2000 gallon water containers. The applicant is requesting an after the fact CDDA to keep this system until the permanent system can be constructed.

Electric and telephone service are per a sixty foot easement traversing the property through MECO.

There are no existing sewage services to the parcel.

Describe existing access. Illustrate roadways and public trails on a map entitled existing access.

The public access is via the King's trail.

The access to the property is via a 12 foot wide easement through the Ko'olau Forest Reserve containing an area of 48,000 square feet or 1.02 acres. It runs seven tenths of a mile from Hana Highway to the top of the property. [see Existing Access Map (easement) – M6]

Describe flora and fauna. Illustrate general location of flora and fauna on a map entitled resources. Indicate if rare or endangered native plants and/or animals are present.

The parcel has been used for cattle grazing since before statehood. There has been grazing and grubbing for over 60 years. There are no rare or indigenous flora or fauna on the property. We have not seen any endangered birds on the property. The open pasture area consists of introduced grasses such as kolimi clover and rat tail grass. At the top of the parcel there is an orchard with papaya, banana, bread fruit, avocado and citrus trees. There are approximately 35 hardwood trees that were planted by the previous owners. These are teak, mahogany, eucalyptus, Milo and Maui Koa. There are approximately twenty tall, old, common mango trees on the lower parts of the property. There are a few scattered ohia trees on Kopiliula and Wailuaiki perimeter cliffsides beyond the property line. There are two endangered grasses found in the coastal area below the property boundary (see Resources Map – M8). The property is covered with lantana, guava, ink berry, and other noxious species. Mike Ade from Maui Invasive Species made an on site inspection in June 2005. He stated that there is miconia on the Hana side of the property near the King's Trail. No endangered or mammal species have been observed within the project area. Known occupied fauna within the property consist predominately of birds such as common mynah (Acridotheres), house finch (carpdacus mexicanus) and cardinals. None of these species are rare or endangered. Mammal species seen on the property are mongoose, mice, rats and feral cats. Pigs have been seen on the property in the past but no droppings were seen during a July 2005 site inspection. These are common species which are found throughout the island. Sea turtles have been seen in the ocean below the property. There will be no building near the cliffs. The Kopiliula Stream which parallels the property's eastern boundary is considered a heritage stream and contains opae, 'o'opu and hihiwai. The applicants are aware of the excellent quality of this stream and will make every effort to make certain that no run off or erosion goes into the stream.

Describe topography and submit a map entitled topography. If ocean area, give depths. Submit detailed contour maps for ocean areas where slopes are 20% or more

The property is surrounded by 5000 acres of state forest. There are cliffs on two of its boundaries and ocean front bluffs on the third. Elevation is from approximately 300 feet to 900 feet above sea level. There are fairly flat rolling hills from the ocean front bluff to the top of the property. (see Topography Maps – M1 and M3)

If shoreline area, describe shoreline and surrounding area. Indicate if shoreline is sandy, muddy, rocky, cliffs, reefs or other features (such as access to shoreline) on a map entitled coastal resources. A current shoreline certification is required for uses that may affect shoreline resources.

The shore line is rocky cliffs 200 to 300 feet above the ocean. Makaloaka Island (State of Hawaii) and a large coral reef are directly north of Papiha Point. The King's Highway switches-back up the cliffs west of the property from Wailua-Iki Bay. It then traverses the property and switches back again down the cliffs east of the property to Kopiliula Stream. The SFD site, located thousands of feet from the coastline, will have no effect on the shoreline area.

If shoreline area, describe and illustrate any coastal hazards such as erosion, flooding, tsunami, etc. Attach any relevant maps delineating the hazard zone (FEMA, FIRM maps).

The shoreline is over 300 feet below the lowest part of the property so flooding and tsunamis are not a hazard. No building or planting is planned near the cliffs, so no man made erosion problems are anticipated.

Describe any existing covenants, easements, and restrictions. If state owned land, indicate present encumbrances.

A sixty foot wide utility easement in favor of Maui Electric Company traverses the property. [see Existing Utilities Map (easement) – M5]

Identify any historic, archeological or cultural sites within the parcel. Please submit or include any current management plan. If applicable, indicate locations on a map entitled historical, archeological and cultural resources and describe below.

The only known historic value of the property is the King's Trail traversing the parcel. An on site inspection was done by Ms. Tori Nohara of Na Ala Hele in June 2005. Per Ms. Nohara, the trails leading into Kopiliula and Wailuaiki are in remarkable condition. Unfortunately, the trail connecting across the ridge top has been destroyed by past grading and grubbing when the parcel was used for cattle grazing. On July 20, 2005 the applicant met with Ms. Melissa Kirkendall of the State Historic Preservation Division, DLNR. At this meeting, the 1993 , onsite inspection done by Ms. Theresa Donham was reviewed. In the 1993 CDUA , Ms Donham did not find any other historical sites other than the King's Highway and the possible platform referred in the letter by Mr. Baker of DOFAW, above the ocean cliffs and beyond the property line. [see S48]

The applicants have no plans for construction near these areas and have carefully made their plans well away from these historic areas. The applicants understand that there is the possibility of other historical sites being present on the property. We, respectfully request that the archeological survey be required only at the sites where construction or planting is planned. If any significant historic sites are found it is understood by the applicant that appropriate mitigation and changes will be made.

Adjacent Property Owners

Please list all adjacent property owners. If no address is available indicate north, south, east and west or mauka, makai or other common county directionals.

The only adjacent property is owned by the state of Hawaii. The property is bounded by the ocean on one side and by State Forest on all other sides.

TMK: _____
Legal Name: _____
Street Address: _____
City, State and Zip code: _____
Mailing Address: _____
City, State and Zip: _____ Phone No.: _____
Location to TMK: _____

TMK: _____
Legal Name: _____
Street Address: _____
City, State and Zip code: _____
Mailing Address: _____
City, State and Zip: _____ Phone No.: _____
Location to TMK: _____

TMK: _____
Legal Name: _____
Street Address: _____
City, State and Zip code: _____
Mailing Address: _____
City, State and Zip: _____ Phone No.: _____
Location to TMK: _____

TMK: _____
Legal Name: _____
Street Address: _____
City, State and Zip code: _____
Mailing Address: _____
City, State and Zip: _____ Phone No.: _____
Location to TMK: _____

PROPOSED SINGLE FAMILY RESIDENTIAL (SFR) PROJECT

Consult HAR, Chapter 13-5, Exhibit 4 entitled "Single Family Residential Standards"

Estimated cost of development (not including cost of land) \$700,000_____

Maximum Height of proposed residence from base level: 25 feet

Building Setbacks Front: 2,010 feet Back: 1,130 feet

Side: 25 feet Side: 1,460 feet

If shoreline parcel or area, indicate the setback from the certified shoreline_____1,130 feet

Total number of floors in structure, including subterranean floors, lofts, porte cochere, mezzanines and garages _____1_____

Total Floor Area (include second story area, garage, decks) _____5,000 sq. ft.

Total Floor Area excluded from the Maximum Developable Area (MDA)_____0.0 sq. ft.
(Floor areas excluded from the MDA must be highlighted on preliminary construction plans.)

	Existing (sq. ft.)	New proposed (sq. ft.)	Total (sq. ft.)
TMK Area	63 acres	N/A	
Building(s)	0.0	8,600	8,600
Paved area(s)	0.0	±6,000 (areas > 20% grade)	6,000
Landscaped area(s)	1 acre	0.25 acres	1.25 acres
Unimproved area(s)	62 acres	59.5 acres	59.5 acres
	Grand Total (should equal TMK area)		63 acres

Is any grading proposed? ☒ Yes ☐ No

If yes, complete the following

Amount of cut	100 Cu. yds.	Maximum height of cut slope	2 ft.
Amount of fill	0.0 Cu. yds.	Maximum height of fill slope	0.0 ft.
Amount of import or export soil	0.0 Cu. yds.	Location of disposal site	n/a

Are utility extensions for the following needed to serve the project?

Water ☐ Yes ☒ No (catchment system) Electric ☒ Yes ☐ No
Sewer ☐ Yes ☒ No (septic system) Telephone ☐ Yes ☒ NoDoes the project include removal of trees or other vegetation? ☐ Yes ☒ No
If yes, indicate the number, type and size._____N/A_____

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ THIS COMPLETED APPLICATION AND THAT, TO THE BEST OF MY KNOWLEDGE, THE INFORMATION IN THIS APPLICATION AND ALL ATTACHMENTS AND EXHIBITS IS COMPLETE AND CORRECT. I UNDERSTAND THAT THE FAILURE TO PROVIDE ANY REQUESTED INFORMATION OR MISSTATEMENTS SUBMITTED IN SUPPORT OF THE APPLICATION SHALL BE GROUNDS FOR EITHER REFUSING TO ACCEPT THIS APPLICATION, FOR DENYING THE PERMIT, FOR SUSPENDING OR REVOKING A PERMIT ISSUED ON THE BASIS OF SUCH MISREPRESENTATIONS, OR FOR SEEKING OF SUCH FURTHER RELIEF AS MAY SEEM PROPER TO THE LAND BOARD.

I HEREBY AUTHORIZE REPRESENTATIVES OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO CONDUCT SITE INSPECTIONS ON MY OR MY CLIENT'S PROPERTY. UNLESS ARRANGED OTHERWISE, THESE SITE INSPECTIONS SHALL TAKE PLACE BETWEEN THE HOURS OF 8:00 A.M. AND 4:30 P.M.

____ David Niehaus & Deborah Mathias

David Niehaus
Deborah Mathias
Signature of Authorized Agent(s) or if no agent, signature of Applicant

AUTHORIZATION OF AGENT

I HEREBY AUTHORIZE _____ TO ACT AS MY REPRESENTATIVE AND TO BIND ME IN ALL MATTERS CONCERNING THIS APPLICATION.

Signature of Applicant(s)

[illegible]

Environmental Assessment – 10/6/05

Summary

Applicant/Owner:

David Niehaus and Deborah Mathias (husband and wife)

Property Location:

Kaliae, Maui, Hawaii

Tax Map Key:

2-1-2-001-004

Parcel Size:

63 Acres

Approving Agency:

Department of Land & Natural Resources

P.O. BOX 621

Honolulu, Hawaii 96813

Proposed Action: The applicants, Deborah Mathias and David Niehaus, propose to construct a one story, single-family residential dwelling and related accessory use improvements (garage, water catchment system, private wastewater treatment system, minor road improvements, and pool), and to reforest a 3-acre area with native Hawaiian trees and shrubs. The applicant also proposes to construct two shade cloth houses for the propagation of native Hawaiian trees for planting on the parcel. An agricultural storage shed, which will be necessary for rain catchment will also be constructed to replace the temporary, existing catchment system. The proposed structural improvements will be on approximately one-half acre of the sixty-three acre property. The applicant proposes to plant three acres with trees that are indigenous to Hawaii and have been propagated on site. The property is located within the State Land Use Conservation District, General Subzone. The project area is located within the County Special Management Area (SMA). The project area is accessed via a 7/10 mile easement through the Ko'olau Forest Reserve and an existing dirt access road on the property.

Determination:

The proposed action will have no significant impact on the environment. A Finding of No Significant Impact (FONSI) is anticipated, subject to the provisions of Section 11-200-9, Hawaii Administrative Rules.

Agencies Consulted:

State

- Historic Preservation Division, Department of Land and Natural Resources (DLNR)
- Office of Conservation and Coastal Lands (DLNR)
- Division of Forestry and Wildlife (DLNR)
- Commission on Water Resource Management (DLNR)
- Engineering Division (DLNR)
- Land Division (DLNR)

County of Maui

- Planning Department

Federal

- Department of the Interior Fish and Wildlife Service

Community

- Keanae-Wailua Community Association

1. INTRODUCTION

1.1 Identification of Applicant and Ownership

The applicants are the Niehaus family (David Niehaus, Deborah Mathias, and Neil Struminger). The Applicants' ownership of the property is evidenced by the deed recorded in the bureau of conveyances of the State of Hawaii on May 31, 2005.

1.2 Identification of Approving Agency

The approving agency for this environmental assessment is:

State of Hawaii
Department of Land and Natural Resources
Board of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

1.3 Identification of Agencies and Community Groups Consulted in Making Assessment

The following agencies provided assistance or information in preparing this assessment:

State

- Historic Preservation Division, Department of Land and Natural Resources (DLNR)
- Office of Conservation and Coastal Lands (DLNR)
- Division of Forestry and Wildlife (DLNR)
- Commission on Water Resource Management (DLNR)
- Engineering Division (DLNR)
- Land Division (DLNR)
- Department of Health

County of Maui

- Planning Department

Federal

- Department of the Interior Fish and Wildlife Service
- Natural resource Conservation Services, USDA

Community

- Keanae-Wailua Community Association
- OHA
- Maui Invasive Species

2. PROJECT DESCRIPTION

2.1 Location

The triangular shaped, 63-acre parcel is located at Kaliae, Maui, TMK 2-1-2-01-04. There are over five thousand acres of state forest land surrounding the parcel. There are cliffs on two of its boundary sides formed by Kopiliula and East Wailuaiki streams, and a 200+ foot oceanfront bluff on the third.

2.2 Existing Uses and Activities

This parcel has been used for cattle grazing since before statehood and can support approximately fifty head of cattle. It is relatively unimproved pastureland except for an existing tent structure used for water catchment and three 2000 gallon tanks used for water storage. The King's Trail traverses the lower region of the property staying below 400 feet elevation and gives access to the shoreline. No valuable fishing or gathering exists on the vacant parcel itself.

2.3 Surrounding Area Uses and Activities

The property is bordered by the Ko'olau state forest which could be used for hunting, hiking and gathering if permitted by the state. The property's sea cliffs are too high for fishing, but shoreline access and neighboring streams can be reached via the King's trail. Keanae and Wailua homesteads (zoned agricultural), located to the west, do not border the parcel and are hidden by densely vegetated ridges and valleys. These residents could use the King's trail for access to cultural and recreational activities along the shoreline.

2.4 Proposed Uses and Activities

A. Single Family Dwelling: Construction of a one-story, single-family residential dwelling on post and pier framing, consisting of 3 bedrooms and 3 baths, kitchen, living room, foyer and entry of approximately 3,500 square feet. The applicant also proposes to construct a detached garage of 1,000 square feet as well as a swimming pool of 700 square feet. Two 30,000 gallon water tanks are proposed, as well as a private wastewater

treatment system that meets all applicable County and State regulations. The applicant wishes to put in a four-inch gravel road base set on an existing dirt access road with pavement on areas with a gradient steeper than 20 percent. There will be minimal grading as the house will be on post and pier rather than a slab. The proposed improvements will be sited along the east edge of the property at approximately 550 feet elevation, 25 feet from the Kopiliula cliff edge boundary and a quarter mile above the northern sea cliff. The proposed improvements comply with section 13-5-41, HAR and "Single Family Residential Standards," dated September 6, 1994, "Conservation District," Hawaii Administrative Rules as set forth below:

Single-Family Residential Standards

Project Dimensions

Minimum lot size: 10,000 square feet

Lot size: 63 acres

Minimum setbacks: Front: 25 feet
Sides: 25 feet
Back 25 feet

Front: 2,010 feet (makai)
Sides: 25 feet and 1460 feet
Back: 1,130 feet

Maximum developable area: 5,000 square feet

Developable area: 5,000 square feet
Main living area: 3,500

Swimming pool: 700 square feet
Garage: 768 square feet

Maximum height limit: 25 feet

Maximum height: 25 feet

Compatibility provisions: landscaping

Landscaping will consist entirely of native plants belonging in a wet forest habitat. (Ohia, Hala, Hapu'u, Lama). Sites will be revegetated within 30 days of work commencement.

Color/surface of structures

Neutral colors such as brown and green, and materials such as wood and stone will be used on the house exterior to harmonize with the physical environment.

Wastewater treatment system

Construction of a private wastewater treatment system meeting all applicable County and State regulations.

Minimum grading/contouring of property

Existing topography will require minimal grading (less than 0.01 % of property).

Connecting structures

Garage shall be detached from house to avoid need for additional

bulldozing (per HAR single family residential standards – see plot plan).
Garage will be less than 20' from house.

Building/grading code, shoreline setback compliance

Applicant will comply with all building/grading code and shoreline setback requirements.

One kitchen

The dwelling has only one kitchen.

B. Landscaping Improvements: Planting of small shrubbery and ground cover, around the perimeter of the residential dwelling as permitted land uses within the general subzone under sections 13-5-14 HAR. The landscaping will improve upon the beauty of the property by replacing existing weed species with native Hawaiian plants. Plant species being considered are Ohia, Hapu'u, Lama, Lauhala, and a multitude of native understory shrubs, sedges, and ferns. The final landscaping plan, which will depend on the availability of planting materials at the time of construction, will be submitted during the construction plan approval.

C. Agriculture: Two 20 by 60 foot shade cloth houses for harboring of native trees to be planted at proposed 3-acre reforestation site (refer to Site Map Plan – M2). One 60 by 60 foot open-walled agriculture shed for water catchment and storage of planting materials and equipment. This shed will replace the existing water catchment tent structure.

2.5 Timetable for Development

The applicant proposes to begin work on improvements within 12 months of receipt of all required permits from the State and County. The commencement of the shade cloth houses and propagating of trees will begin immediately upon approval of the CDUA and environmental assessment. Adult trees, however, may not be ready for planting until up to four years, and some six years, due to the fact that an overstory must first be in place. It is anticipated that all the single family dwelling and accessory structures will be completed within two years of commencement of construction. It is anticipated that an extension permit will be required for the planting of the trees as the under story trees can not be planted until the upper story trees are at least four years old.

2.6 Funding and Source

Development of the resident and accessory infrastructure is estimated to cost approximately \$850,000. Agricultural infrastructure (including water tanks, catchment shed, and shade cloth houses) is estimated to cost \$65,000.

3. ENVIRONMENTAL SETTING, IMPACTS & MITIGATION MEASURES

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Garage will be less than 20' from house.

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3. ENVIRONMENTAL SETTING, IMPACTS & MITIGATION MEASURES

3.1 Physical Characteristics

3.1.1 Physiography and Soils

The elevation of the property ranges from 200 feet at the northern sea cliffs to 900 feet at its mauka border with the state forest. The overall slope of the property is approximately 3 to 25 percent (see **USDA report and Topographical Maps – M1 & M4**).

In a representative soil profile, the surface layer is dark brown silty clay about 9 inches thick. The upper part of the subsoil, about 18 inches thick, is dark brown and reddish-brown silty clay that has a sub-angular blocky structure. The lower part of the subsoil is a very dark gray silty clay loam. The substratum is soft, weathered basic igneous rock. The soil is strongly acidic in the surface layer and strongly acidic to medium acidic in the subsoil. Water permeability is moderately rapid. Runoff is slow and the erosion hazard is slight.

Impacts and Mitigation: Very minor changes to the land form will result from the construction of the single-family residential dwelling and related accessory use improvements, and so no significant adverse impacts are expected. The proposed action would result in the loss of very little agricultural land as the site for development is small compared to the overall size of the parcel.

3.1.2 Natural Hazards

Flood and coastal hazards. The shoreline of the property is approximately 2710 feet in length and is characterized by steep 200 foot sea cliffs. The east and west borders of the property are the tops of even taller cliffs that drop down to Kopiliula and Wailuaiki streams respectively.

Impacts and Mitigation: The project site is located above 500 feet elevation and thus the threat of a tsunami is negligible. Threat of flood is also negligible due to the height of the property above the stream bed cliffs.

3.1.3 Flora/Fauna

No plant species listed by the U.S. Fish & Wildlife Services or State as threatened or endangered occur on the property or immediate vicinity. Adjacent to the property, there is a designated critical habitat for the endangered *Mariscus Pennatifolius* (no common name), a type of sedge along the coastal edge of TMK 2-1-2-001-004 and the endangered *Ischaemum Byrson* (Hilo *Ischaemum*) – see map from US Fish & Wildlife Service (Resources Map – M8). The property itself consists of introduced grasses as well as noxious trees such as guava, inkberry, and lantana. There are also numerous old common mangos. Few Ohia and Lauhala trees occur on the cliff borders of the property where livestock and machinery could not access.

No endangered or otherwise rare bird or mammal species were observed within the project area or vicinity. Known occupied fauna within the property consists predominantly of lowland introduced birds such as the Japanese White Eye, Mynah, and occasional cardinal. No endemic or indigenous birds are observed. Mammal species

observed include field mice, rats and mongoose. No endemic or indigenous mammals are observed.

Sea turtles and other marine species and habitats are observed in the reefs off of the cliffs of the property. Freshwater species and habitats may also exist in the streams far below the property boundaries.

Impacts and Mitigation: No rare or endangered plant or animal species or habitats would be affected since there is no evidence of threatened, endangered or rare plants, birds, or mammals within the property and project site. Any type of marine habitat would not be affected as construction would occur far from the ocean cliffs and streambeds (refer to Site Map Plan – M2) and all erosion and runoff will be contained within the site boundaries.

3.1.4 Historical/Cultural and Archaeological Resources

The greatest historic value of the property is the *Alanui o Piilani* or "King's Trail" traversing the parcel. An on site inspection was done by Ms. Tori Nohara of Na Ala Hele in June 2005. Per Ms. Nohara, the trails leading into Kopiliula and Wailuaiki are in remarkable condition. Unfortunately, the trail connecting across the ridge top has been destroyed by past grading and grubbing when the parcel was used for cattle grazing. On July 20, 2005 the applicant met with Ms. Melissa Kirkendall of the State Historic Preservation Division, DLNR. At this meeting, the 1993, onsite inspection done by Ms. Theresa Donham was reviewed. In the 1993 CDUA, Ms Donham did not find any other historical sites other than the King's Highway and the possible platform referred in the letter by Mr. Baker of DOFAW, above the ocean cliffs.

The ahupua'a name Kaliae was not found in *Places and Names of Hawaii* (1981). According to the map (Dorrance 2000:60) and information in *Sugar Islands* (2000) the subject area appears not to have been cultivated in sugar. Hana was a region famous in legend and history ... supported chiefly by fields of mulched (dry) taro cultivation and sweet potato, the steep stream Wailua being almost the only area of wet taro. (Handy&Handy 1972:272). It is not likely that wet taro was cultivated here – as the property is located hundreds of feet above any natural water source.

Impacts and Mitigation: The applicants have no plans for construction in either of the above areas and have carefully made their plans far away (mauka side) from any historic or cultural sites. The applicants understand that there is the possibility of other historical sites being present on the property. It is requested that the archeological survey be required only at the sites where construction or planting is planned. If any significant historic sites are found it is understood by the applicant that appropriate mitigation and changes will be made. In addition, there are no observable traditional and customary native Hawaiian practices being exercised outside the shoreline area and "King's Trail." Known traditional and customary native Hawaiian practices and other valued cultural, historical or natural resources on the property that are located along the shoreline and "King's Trail" will be recognized and allowed by the applicant.

3.1.5 Air and Noise Quality

Air: The air quality in the Hana district is very clean due to the low population

and low industrial activities. Vehicular exhaust may pollute the air, but to an untraceable amount.

Noise: The noise generated within the vicinity of the project area mainly comes from natural sources like wind.

Impacts and Mitigation: Given that the project is far from the Hana Highway or any neighboring residents, no short-term or long-term increase in noise or air pollutants will be experienced in or around the project area.

3.1.6 Scenic and Open Space Resources

The present landscape of the project area, and remainder of property, is characterized by gradually sloping pastureland overgrown with noxious trees and shrubs. The project area will not have views of any extensive coast line, neighboring residents, distinguished landmarks, or the Hana Highway.

Impacts and Mitigation: The location of the residential dwelling and remainder of improvements will have no impact on the public's view to and along the shoreline. Development will be compatible with the visual environment by using colors and materials that blend in with natural surroundings. Large amounts of open space will remain. More than 59 acres of the 63-acre parcel will be untouched, with 3 acres going to native tree restoration and much less than 1 acre for residential dwelling and accessories. Native landscaping will occur immediately on and around the project site to help blend in with some of the same tree and plant species that can be observed scattered in the gulches below.

3.1.7 Coastal Resources

The coastal resources of the property consist of 200 + foot sea cliffs that do not give access to the ocean except via the "King's Trail" that runs east to west (see exhibit - Historical Resources Map - M7). The county of Maui Public Access to the Shoreline Inventory does not list the property as one which provides public access from the Hana Highway to the ocean. All ocean access in the vicinity is solely by the "King's Trail."

Impacts and Mitigation: The project does not involve any direct or indirect modifications to the near shore environment, nor will cause the possibility of erosion and sedimentation seepage into the ocean because of not only the distance between the project site and the coastline, but also because a sedimentation basin will be built. Therefore there will be no physical disruption of the existing coastal habitat nor changes in wave energy striking the shoreline. Lateral pedestrian access along the coast via the "King's Trail" will be recognized by the applicant and will be many hundred yards below and out of view of the residential dwelling and accessory structures.

3.2 Socioeconomic Considerations

The project will generate minor and impermanent improvements to the economy resulting from construction related jobs.

3.3 Public Facilities and Services

3.3.1 Access

The access to the property is via a 12 foot wide easement through the Koolau Forest Reserve containing an area of 48,000 square feet or 1.02 acres. It runs seven tenths of a mile from Hana Highway to the top of the property. Access from the top of the property to the project site is via an already existing dirt access road. Pedestrians could access the property via the "King's Trail" from the west via Wailuaiki Bay, or from the east via the mouth of the Kopiliula Stream. [see Existing Access Map (easement) – M6]

Impacts and Mitigation: The existing roadway is adequate to accommodate the proposed action except will need four-inch gravel road base and pavements on areas with gradient steeper than 20 percent. The proposed action will have no adverse effects on access to either side of the property via the "King's Trail." The access to the public should be improved if the DLNR will supervise and allow some type of trail maintenance. At present the trail is virtually impassable due to overgrowth of noxious plants.

3.3.2 Water Resources

No municipal water system is available to the property. The three existing 30 by 60 foot tents and 2,000 gallon storage tanks provide water to the property and will supply the project area until they are replaced by the 60 by 60 foot catchment shed and the two 30,000 gallon tanks.

Impacts and Mitigation: Because there is no municipal water service to the property, the project will have no adverse affect on anyone else's water. There is ample rainfall (over 100 inches per year) to support a catchment system that meets the requirements of the proposed uses.

3.3.3 Utilities

Maui County electrical lines run across the property and are serviced by Maui Electric Company (see map – Existing Utilities). Telephone lines were installed by past owners.

Impacts and Mitigation: There is no anticipated adverse impact upon electrical services since the lines cross the property and contain properly installed transformers. Both electrical and telephone services are available to the project area.

3.3.4 Police and Fire Protection

The area is currently serviced by the Hana Police and Fire Departments which are located approximately 11 miles east on Hana Highway.

Impacts and Mitigation: The construction of a single family dwelling with accessories and growing of four acres of trees will not in and of itself create an unreasonable demand for expansion of either police or fire services. Water for private fire protection will be supplied by catchment and swimming pool and will meet all County regulations.

3.3.5 Wastewater

There are no municipal sewage treatment facilities or public sewer pipelines on the property.

Impacts and Mitigation: Applicants will be required to apply for a permit from Maui County for a private wastewater treatment system. A component of the building permit application is a requirement for a State Department of Health approved individual waste water system. (see Septic System Drawing)

3.3.6 Public Schools

This area is serviced by the Hana Elementary and High Schools which are located approximately 11 miles east on the Hana Highway.

Impacts and Mitigation: A single family dwelling will not have a significant impact on the public school system.

4. Summary of Alternatives Considered to Proposed Action

4.1 No Action

A "No Action" alternative would result in no construction of a single family residence and accessory structures, as well as no construction of shade cloth houses and catchment shed for cultivating native Hawaiian trees. A "No Action" alternative would result in no related employment prospects. There would be no increase in the land value or associated government revenues from higher property taxes. The owners would not be able to use the property for their personal and preferred use. For these reasons, a "No Action" alternative is not practical nor favorable.

4.2 Alternative Location

The location of the proposed single family residence, accessory structures, and agricultural structures are depicted on the site plan (see Site Plan Map - M2). The applicants wish to locate their residence on the eastern side of the parcel at about 550 feet elevation in order to take best advantage of the mountain and ocean views -- as well as to create a buffer between their home and the King's Trail and sea cliffs. Furthermore, by placing their dwelling in the proposed location, the applicants are in no sight of neighboring parcels or residents. The proposed residence will not be visible from Hana Highway or the coastline.

4.3 Alternative Use

The applicants have not identified any alternative uses for the project area that would satisfy their needs. The construction of a single family residence and agricultural structures, as well as a native tree replanting project, were the main reasons for purchasing the parcel.

5. Expected Determination and Significance Criteria

5.1 Determination

This Draft Environmental Assessment concludes that no significant negative impacts upon society and/or the environment, long or short term, will result due to the proposed action. The proposed construction of a single family residence with accessory structures, shade cloth houses, catchment sheds and storage tanks, as well as the planting of trees are all identified land uses within the General Subzone of the Conservation District as in HRS 13-5-14. As such, in compliance with HRS 343 11-200-11, a Finding of No Significant Impact (FONSI) is anticipated. Thus it is in the opinion of the applicant that the manageable impacts of the project do not warrant the preparation of an Environmental Impact Statement.

5.2 Significance Criteria

Chapter 200 of Title 11, Administrative Rules of the Department of Health which is entitled "Environmental Impact Statement Rules" gives a significance criteria for evaluating the impacts of a proposed action upon the environment. The relationship of the proposed Single-Family Residence to these criteria is reviewed below.

- 1. Involves an irrevocable commitment to loss or destruction of any natural or cultural resources.**
The proposed action will not involve a loss or destruction of any natural or cultural resources.
- 2. Curtails the range of beneficial uses of the environment.**
The proposed action will not curtail the range of beneficial uses of the environment. All development and construction effluent will occur and be contained on private property. No long or short-term negative environmental impacts are anticipated.
- 3. Conflicts with the State's long-term environmental policies or goals and guidelines as expressed in Chapter 344, HAR, and any revisions thereof and amendments thereto, court decisions, or executive orders.**
The proposed action does not conflict with the State's long-term environmental policies, goals and guidelines.
- 4. Substantially affects the economic or social welfare of the community or State. Substantially.**
The proposed action will not have a significant impact upon either the economic or social welfare of the community or State.
- 5. Substantially affects the public health.**
The proposed action is not anticipated to substantially or negatively impact public health.
- 6. Involves Substantial secondary impacts, such as population changes or**

effects on public facilities.

The proposed action will not involve substantial secondary impacts. The construction of a single family dwelling will not create additional public pressures such as population increase, which would lead to a greater need of public facilities.

7. **Involves a substantial degradation of the environmental quality.**
The proposed action is not anticipated to substantially degrade environmental quality.
8. **Is individually limited, but cumulatively has considerable effect upon the environment or involves a commitment for larger actions.**
The proposed action will not create a commitment for larger action nor will it contribute to a cumulative negative effect upon the environment. The proposed action is a stand-alone project for the construction of a single family dwelling and accessory structures, and agricultural structures.
9. **Substantially affects a rare, threatened, or endangered species or habitat.**
The project area is devoid of any rare, threatened or endangered species. The project will not place any nearby habitat at risk.
10. **Detrimentially affects air or water quality or ambient noise levels.**
Air quality impacts resulting from the project will be short-term and insubstantial. The property is isolated from neighboring residences and public places, thus short term increases in noise level will be insubstantial. Water quality of any streams and ocean will not be affected as runoff away from the project area will be minimal.
11. **Affects or is likely to suffer damaged by being located in an environmentally sensitive area such as a flood plain, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, fresh water, or costal waters.**
The proposed action will not affect or suffer damage by being in an environmentally sensitive area. The proposed site (elevation 500 feet) is well above the base flood elevation of 23 feet above mean sea level. The proposed site is well out of the range of any streams or washes, and exists on very permeable, erosion resistant, silty, clay soil.
12. **Substantially affects scenic vistas and view plains identified in County or State plans or studies.**
The proposed action will not substantially effect scenic or vistas and/or public view plains. The proposed site will not be visible from Hana Highway or from Wailua or Nahiku, or any, residences. The applicants propose to landscape the parcel with appropriate native trees, shrubs, sedges, and ferns to soften the visual impact of the development from the adjoining state forest.
13. **Requires substantial energy consumption.**

The proposed single family residence and accessory structures, as well as agricultural structures, will not consume substantial amounts of energy.

6. Permits, Variances, and Approvals

6.1 Special Management Area Use Permit

Project site is located within the Special Management Area (SMA), thus it is subject to the SMA Rules and Regulations of the County of Maui. However, because the project is a single family residence, it is specifically exempt from the SMA requirements.

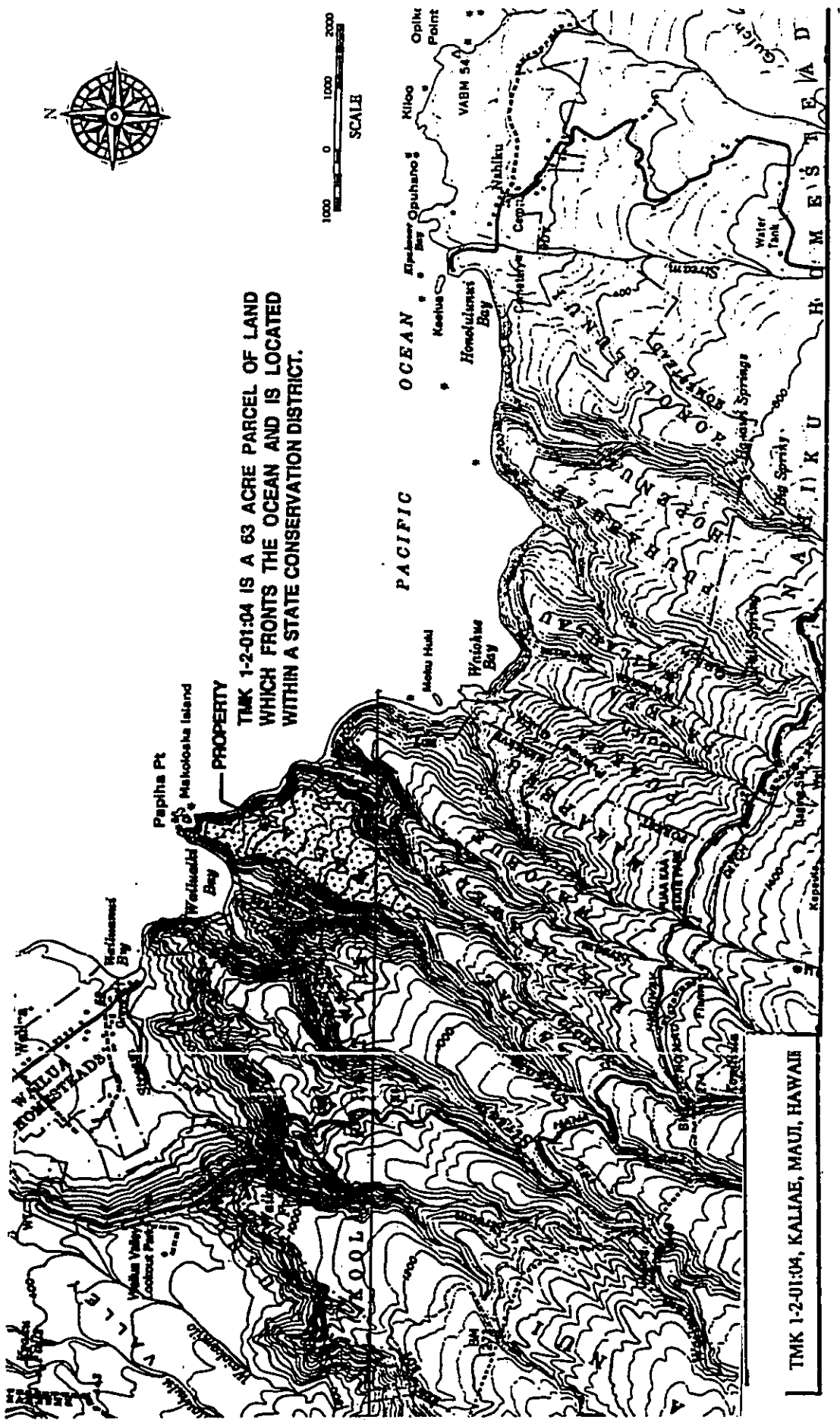
6.2 Shoreline Setback Certification/Variance

Project area is not in the County of Maui shoreline setback zone. Even if it were, project area is located at 500 feet elevation, more than a thousand feet from the parcel's sea cliffs.

6.3 Other Departmental Permits

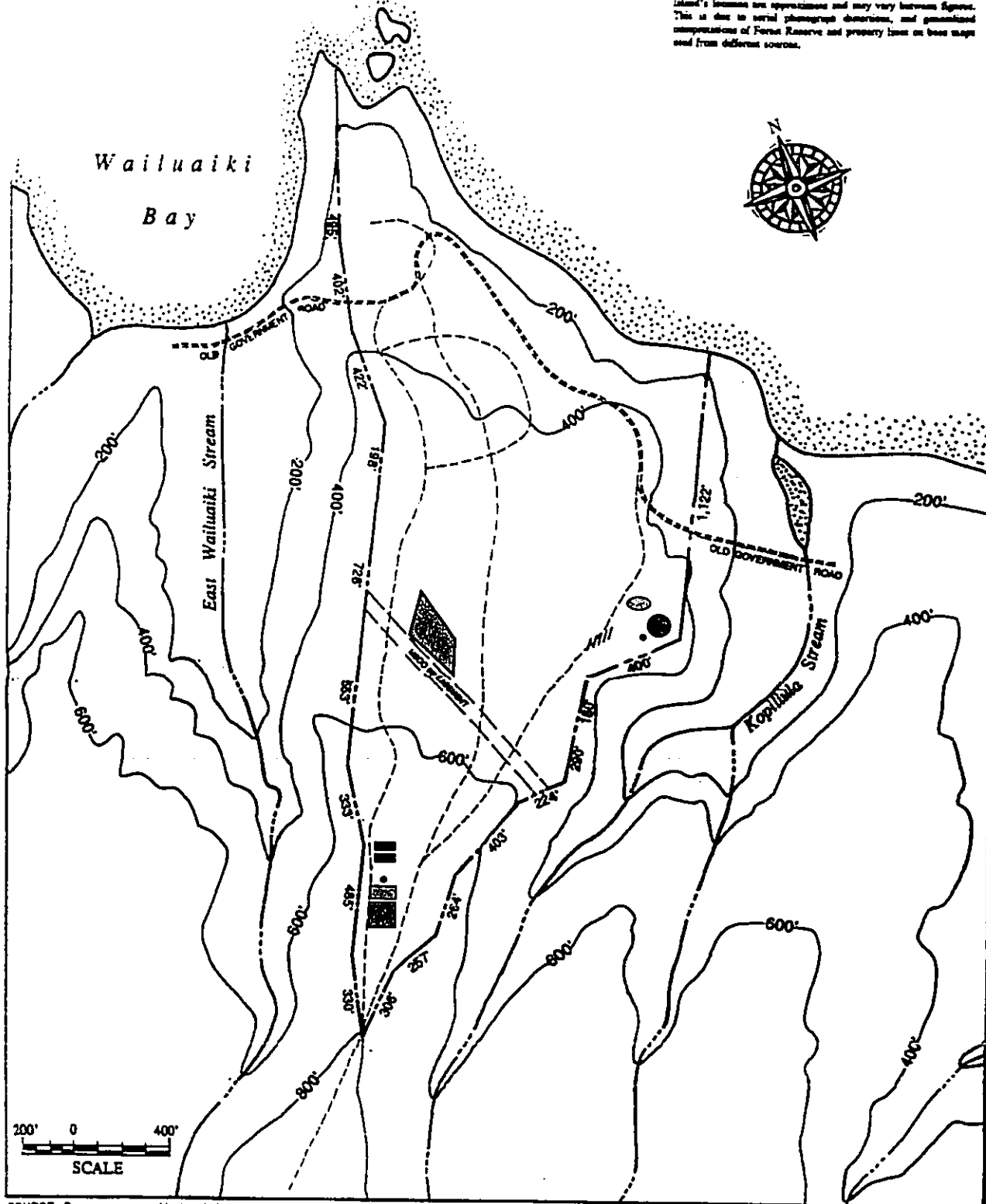
Additional construction related permits shall be obtained from County and State as is required of the Building Permit process which is administered by the Department of Public Works, County of Maui. Applicants also will obtain the Department of Health's approval for an Individual Wastewater System (IWS), and a Public Works approval for structural design of the single family dwelling, and accessory and agricultural structures.

AREA MAP / TOPOGRAPHY



SITE MAP

Note:
Forest Reserve Boundary lines, property lines and Mahaloaka Island's location are approximations and may vary between figures. This is due to aerial photograph distortions, and generalized interpretations of Forest Reserve and property lines on base maps used from different sources.



SOURCE: Base map topographic data drafted from U.S.G.S. Quadrangle

Legend

- Property Line
- Existing Trail
- Old Government Road
- Maui Electric Company Utility Easement (Placement on map is approximate.)

- Existing water catchment tents
- Proposed agricultural shed site
- Proposed 3 acre native forest
- Proposed SFD site
- Proposed shade cloth houses
- Proposed septic field
- Two proposed 30K gallon water tanks
- /// Proposed driveway improvements (areas greater than 20% grade)

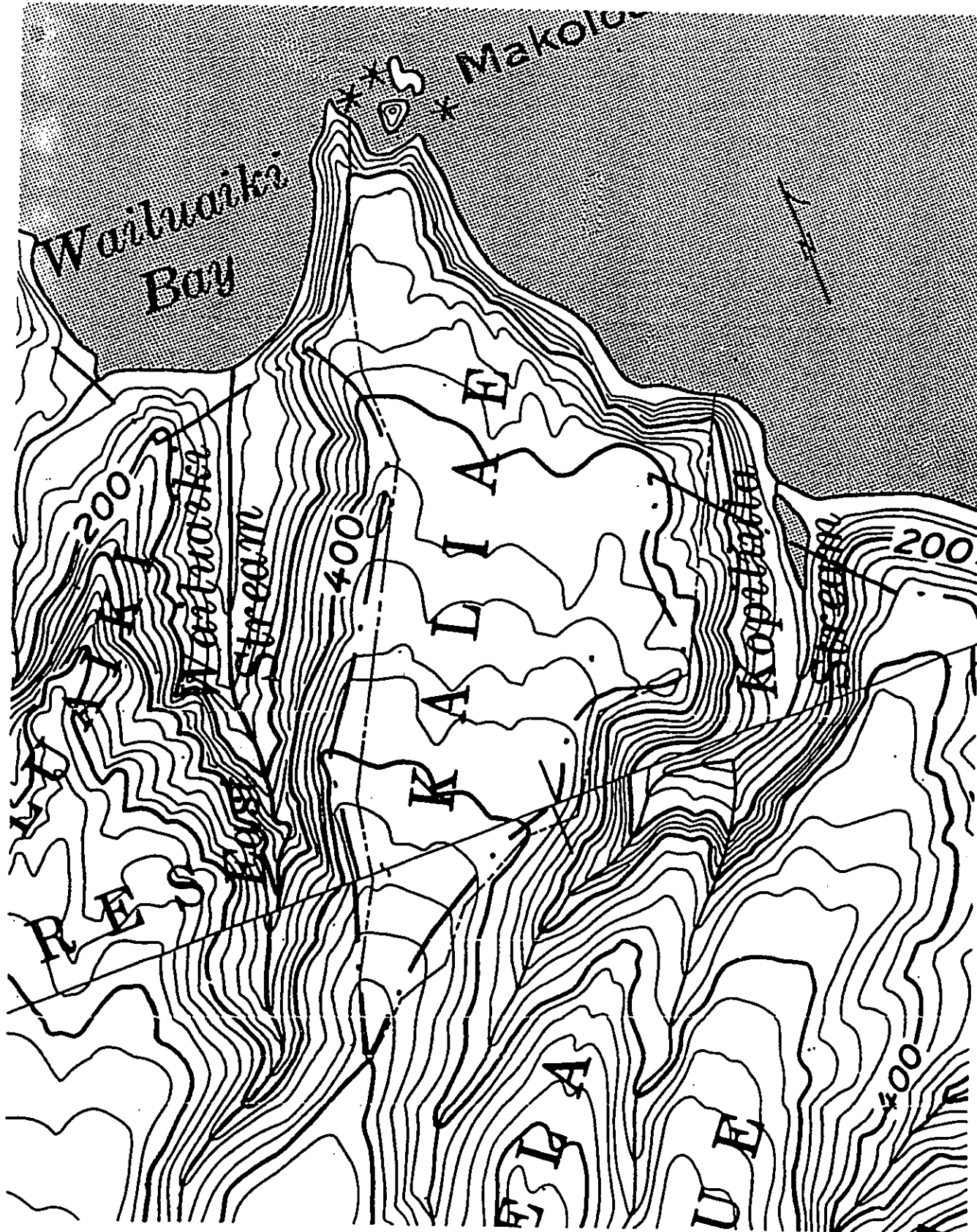
PROPERTY SITE MAP

TWK 1-2-01:04, KALIAE, MAUI, HAWAII

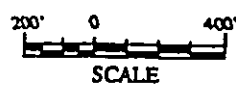
INTERLAND DESIGN GROUP, INC.
500 N. Mahe Hwy., Suite 201P
Mahe, HI 96725 • 808-336-5485

M2

TOPOGRAPHY



SOURCE Basemap adapted from USGS Quadrangle



Legend

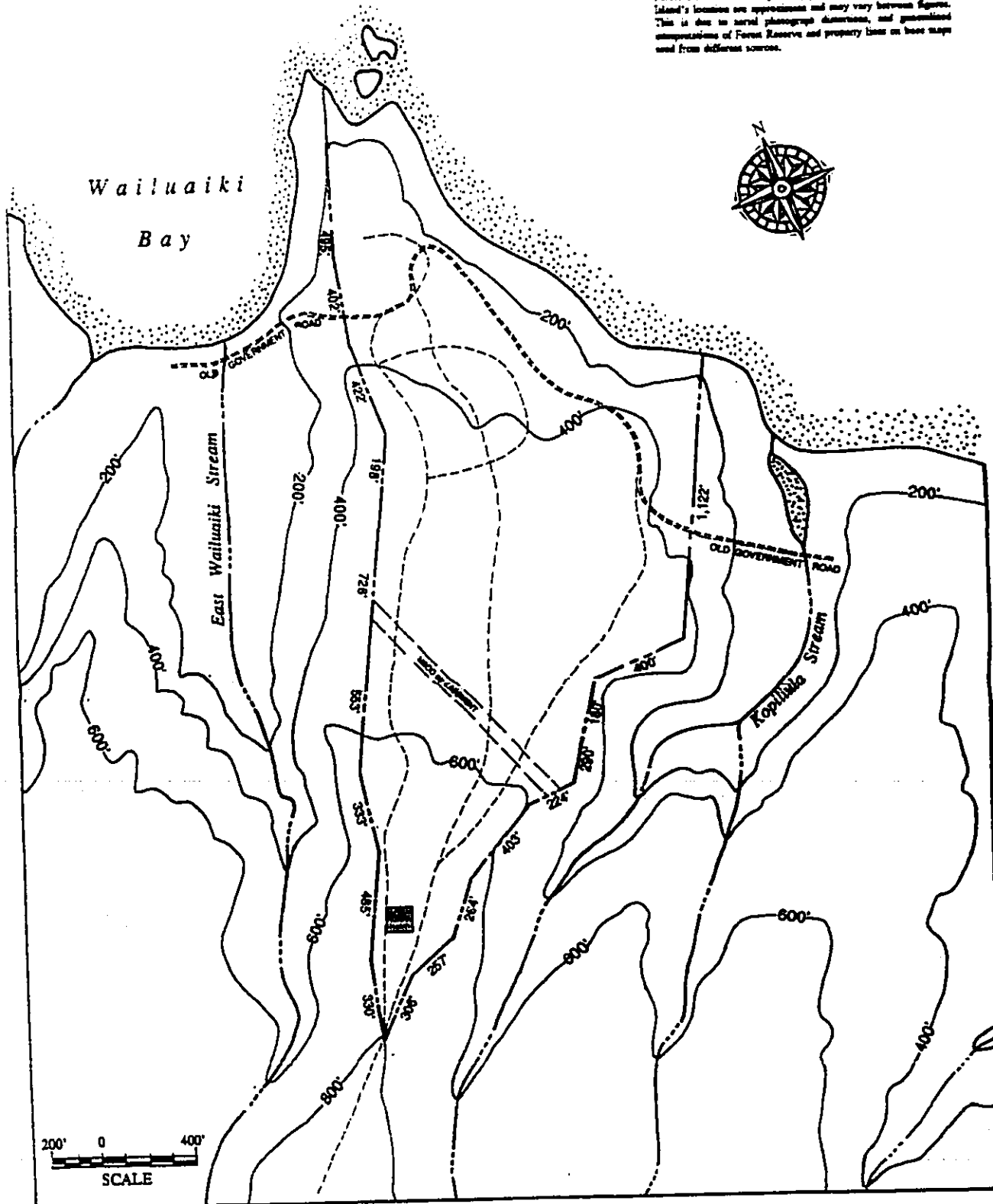
- — — Forest Reserve Boundary
- Property line

Note:

Forest Reserve Boundary lines, property lines and Makolu Island's location are approximate and may vary between figures. This is due to aerial photograph distortions, and generalized interpretations of Forest Reserve and property lines on base maps used from different sources.

EXISTING STRUCTURES

Note:
Forest Reserve Boundary lines, property line and Makahala
Island's location are approximate and may vary between figures.
This is due to aerial photograph distortions, and generalized
interpretations of Forest Reserve and property lines on base maps
used from different sources.



SOURCE: Base map topographic data drafted
from U.S.G.S. Quadrangle

Legend

- Property Line
- ... Existing Trail
- . - . - Old Government Road
- Maui Electric Company Utility Easement
(Placement on map is approximate.)

■ Existing water catchment tents

PROPERTY SITE MAP

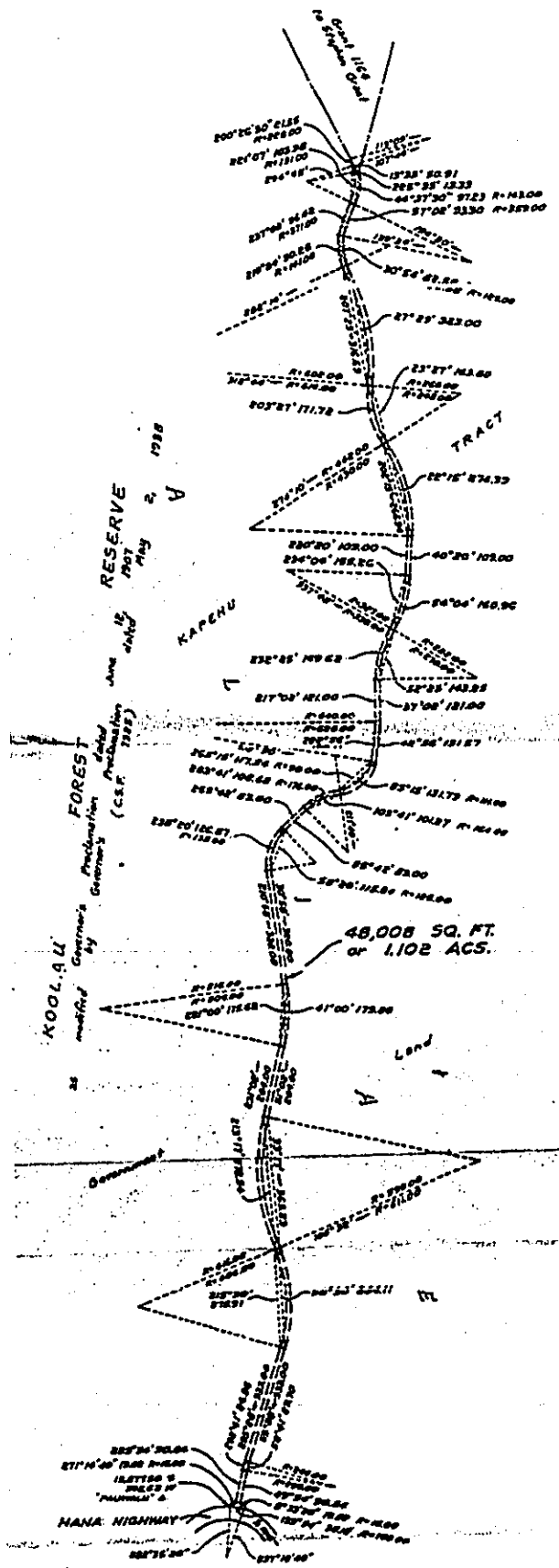
TMK 1-2-01-04, KALAE, MAUI, HAWAII

ENTERLAND DESIGN GROUP, INC.
200 N. Nimitz Hwy., Suite 201P
Honolulu, HI 96825 • 808-534-5485

M4

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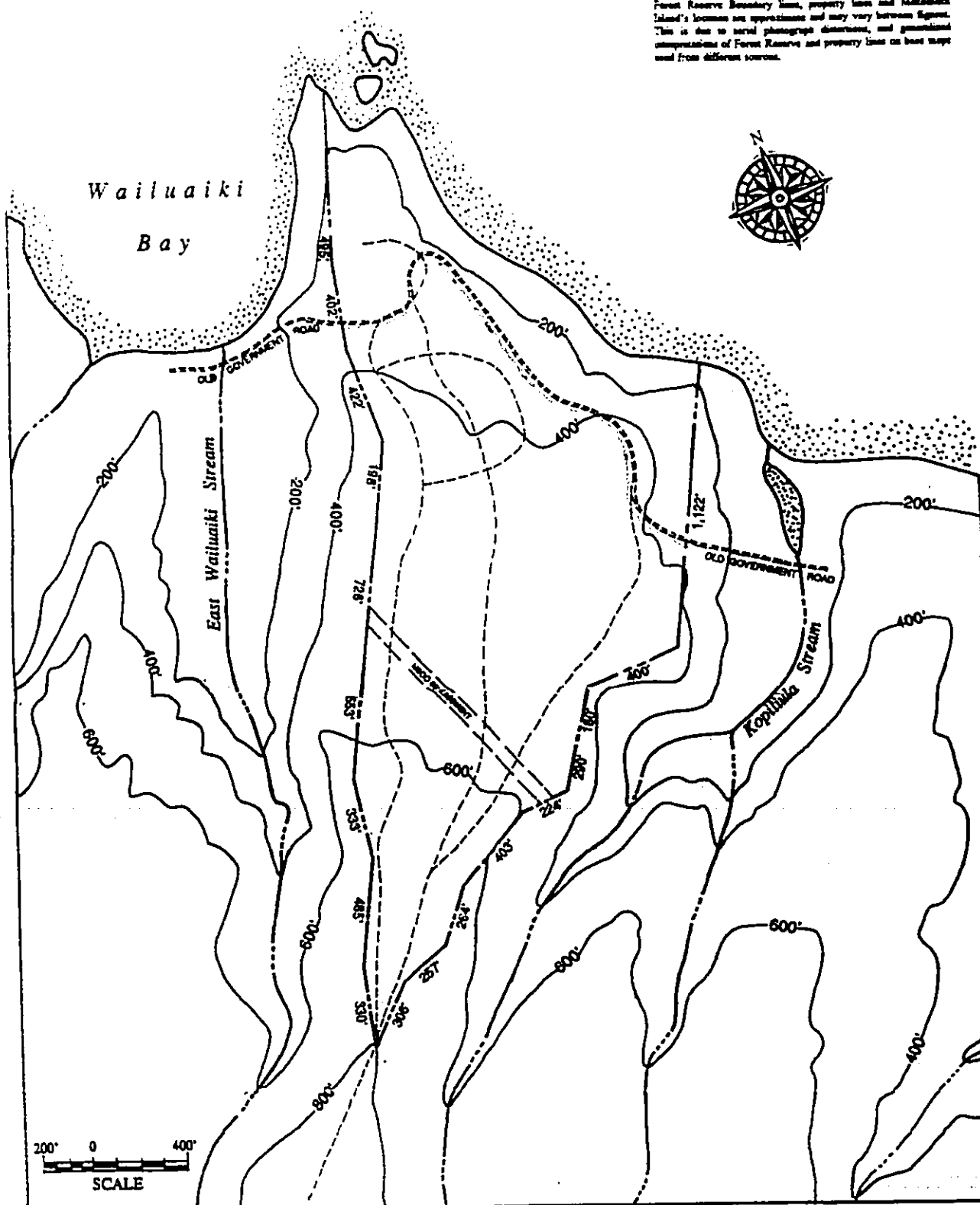
EXISTING ACCESS



PERPETUAL NON-EXCLUSIVE ACCESS EASEMENT
Kalihi, Hana, Maui, Hawaii
Scale: 1 inch = 200 feet

HISTORICAL, ARCHAEOLOGICAL & COASTAL RESOURCES

Note:
Forest Reserve Boundary line, property line and Makahala
Island's location are approximate and may vary between figures.
This is due to aerial photograph distortion, and generalized
interpretations of Forest Reserve and property line on base maps
used from different sources.



SOURCE: Base map topographic data drafted
from U.S.G.S. Quadrangle

Legend

- Property Line
- - - Existing Trail
- - - Old Government Road
- - - Maui Electric Company Utility Easement
(Placement on map is approximate.)

■ Old King's Trail

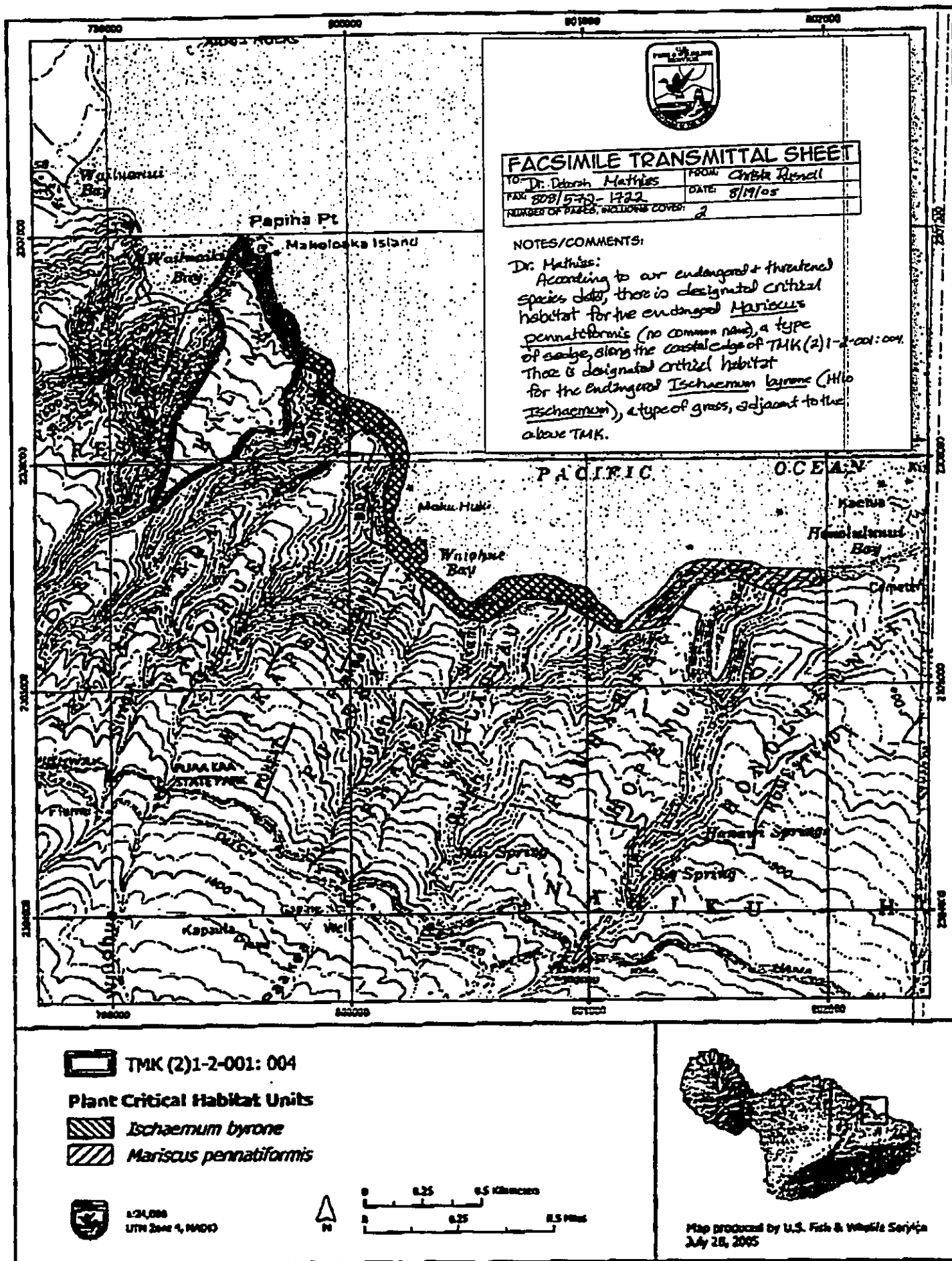
FIGURE 6.
PROPERTY SITE MAP

TMK 1-2-01-04, KALIAE, MAUI, HAWAII

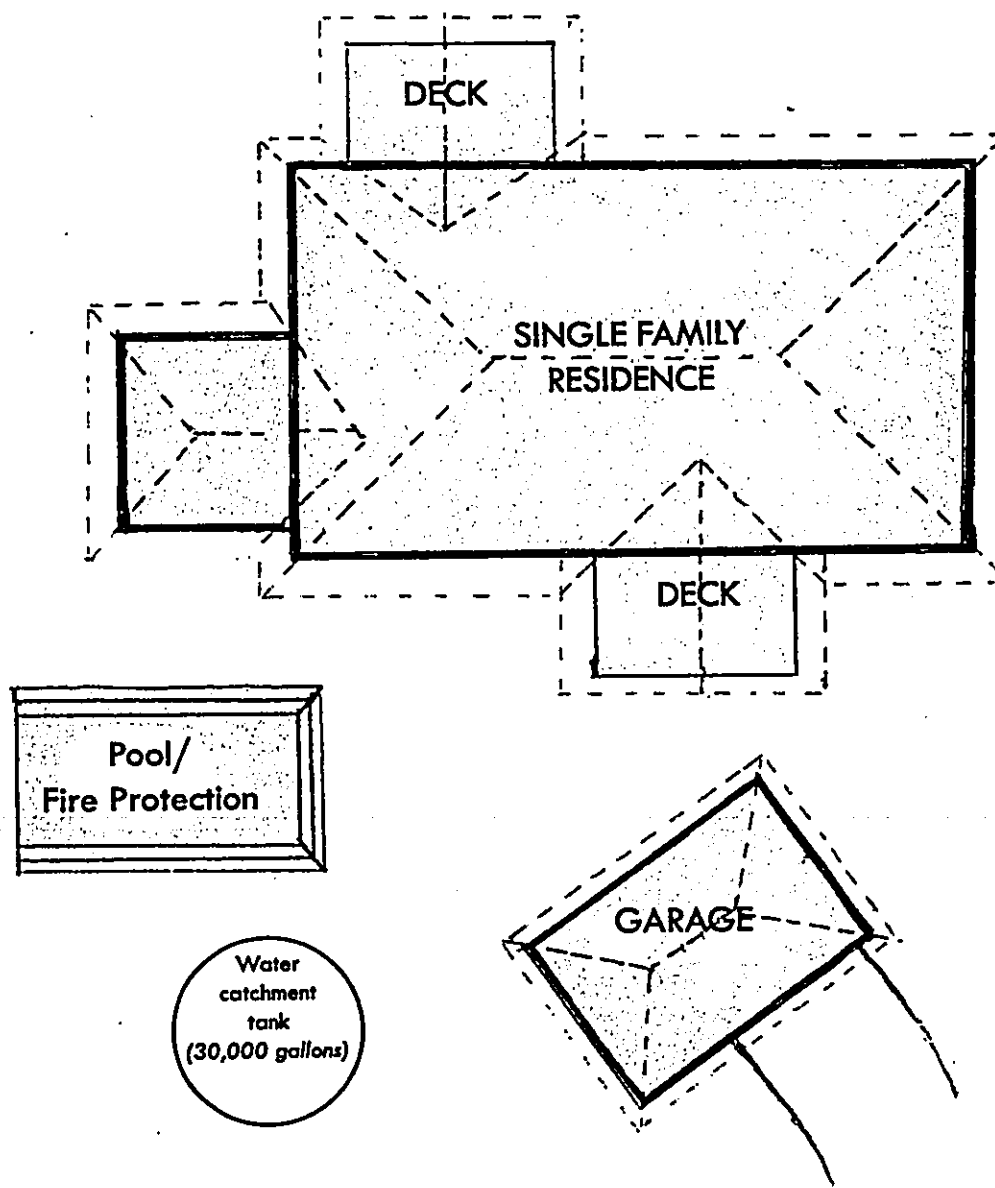
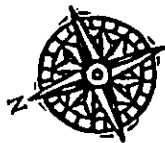
INTERISLAND DESIGN GROUP, INC.
300 N. Nimitz Hwy., Suite 201F
Honolulu, HI 96825 • 808-534-5485

M7

RESOURCES

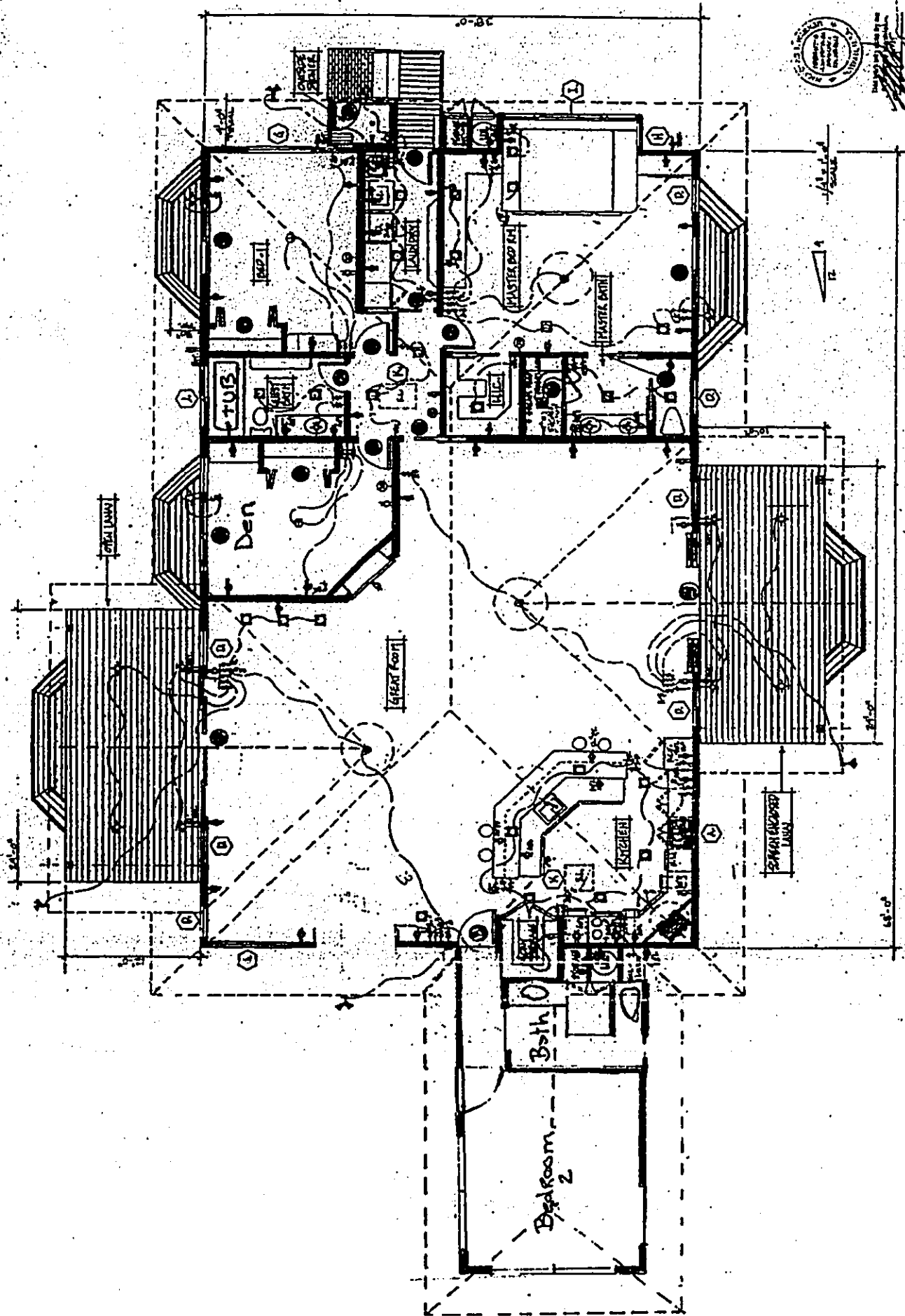


PLOT PLAN

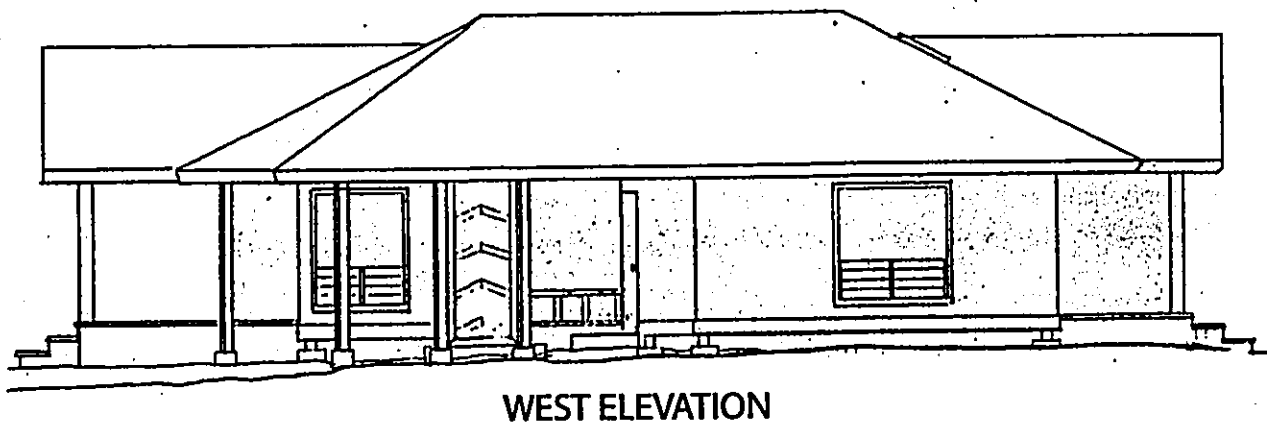
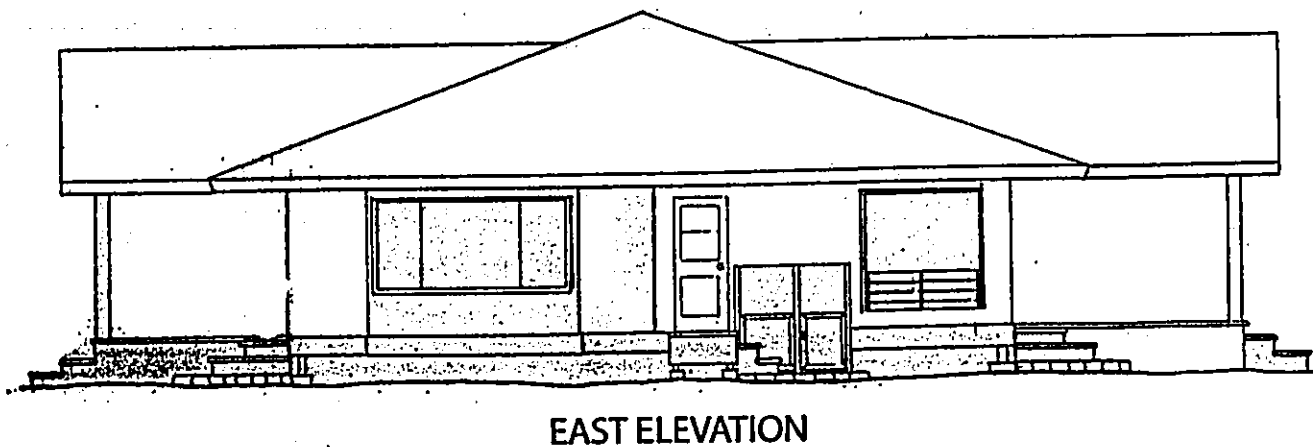
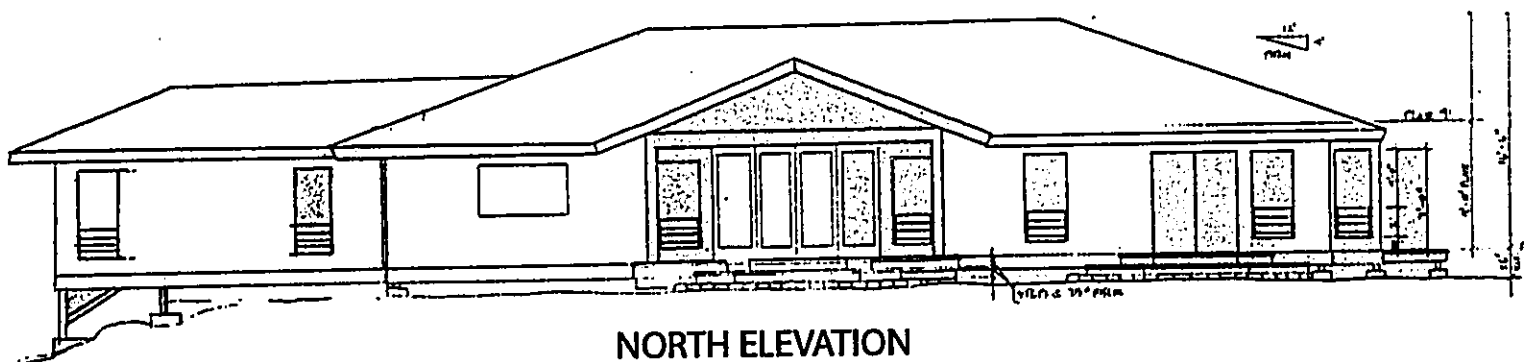
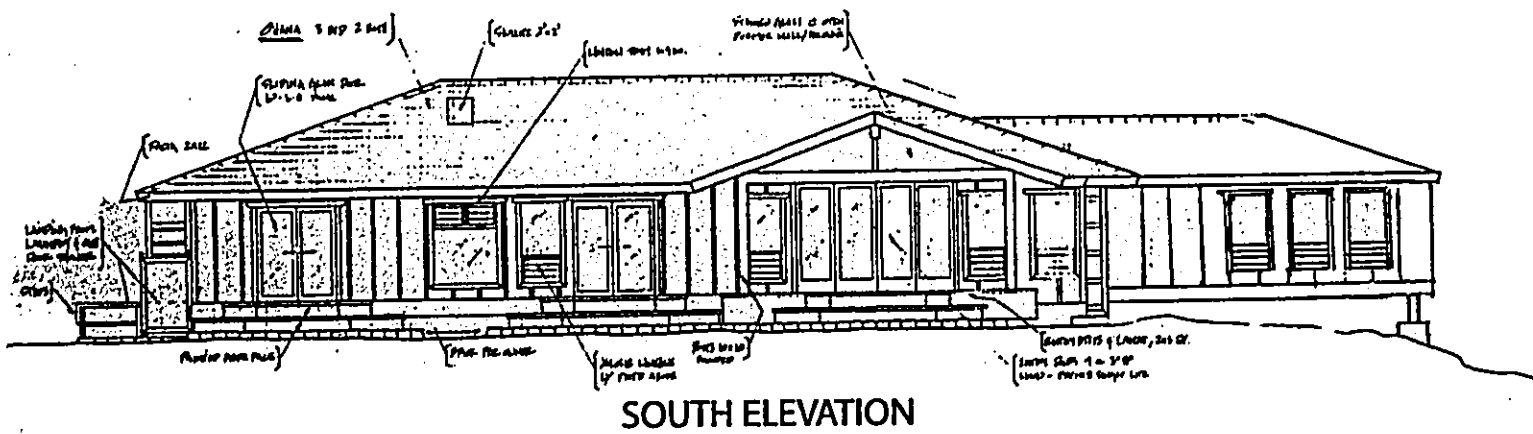


scale: 1" = 20'

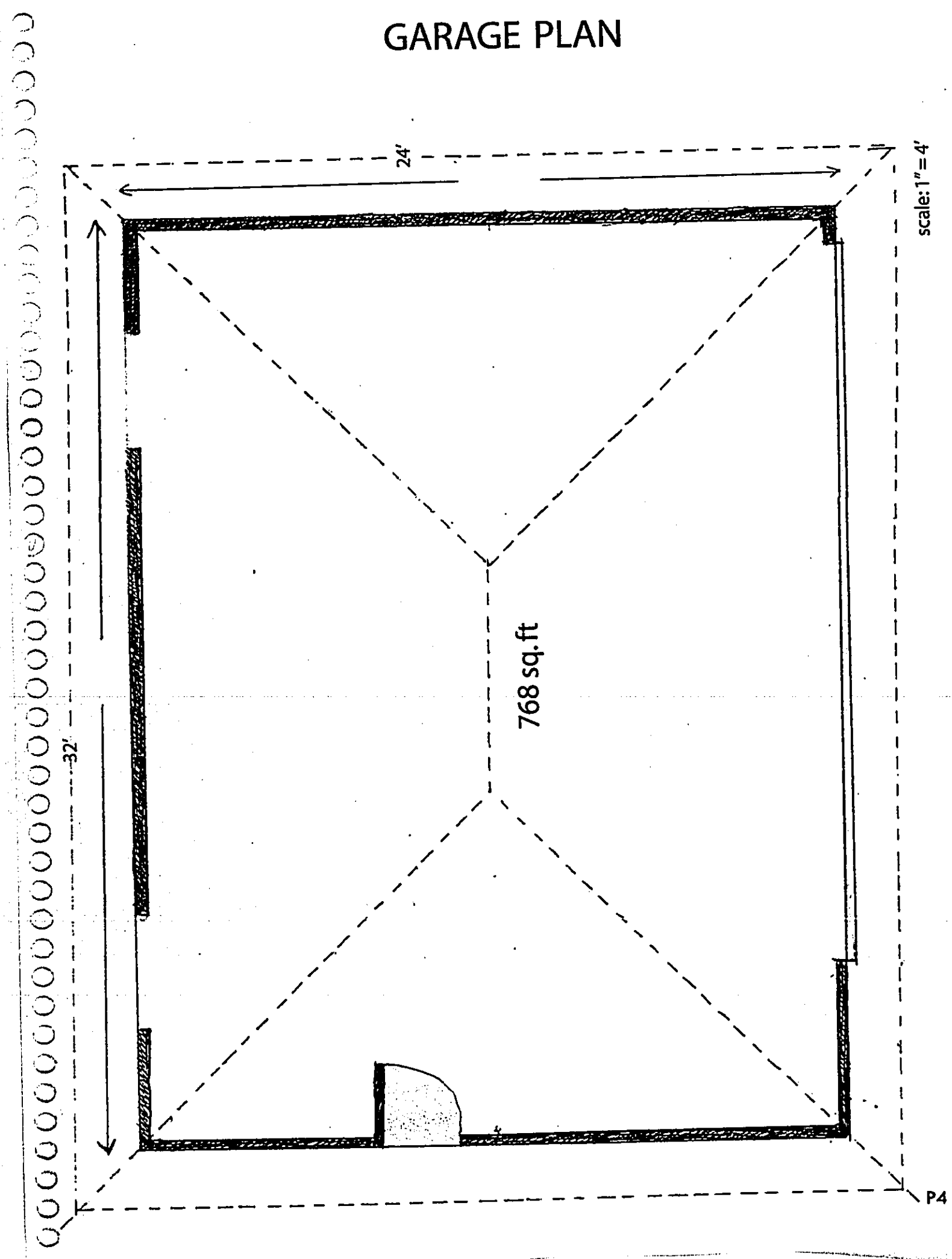
SFD PLAN



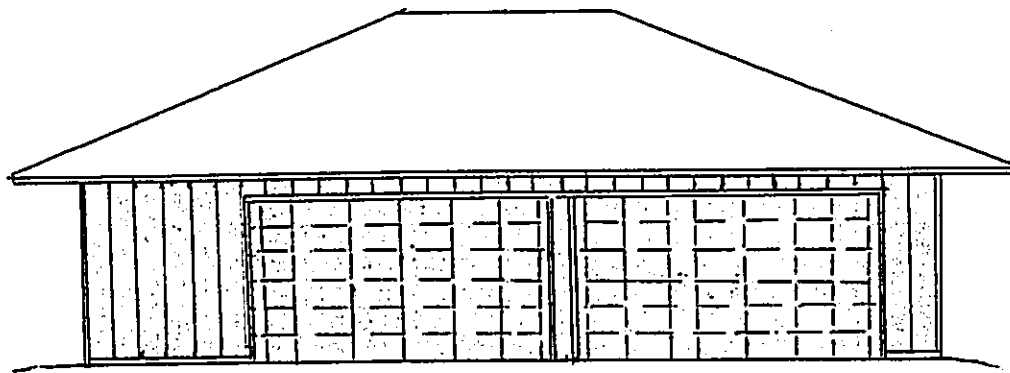
SFD - ELEVATIONS



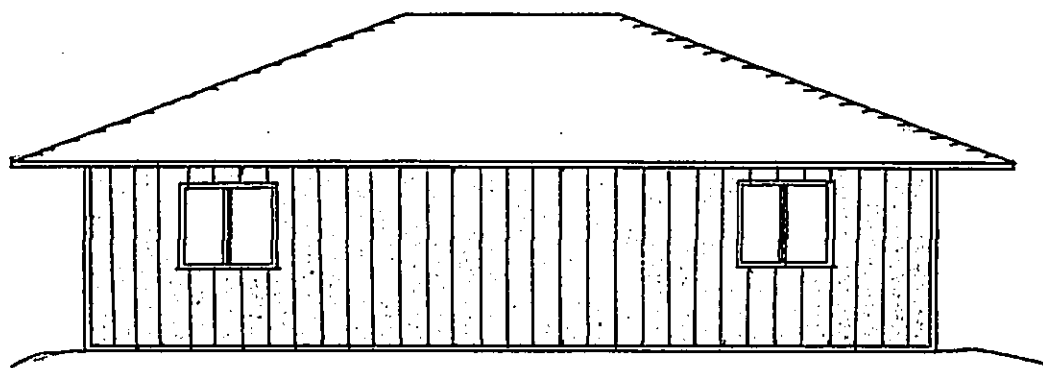
GARAGE PLAN



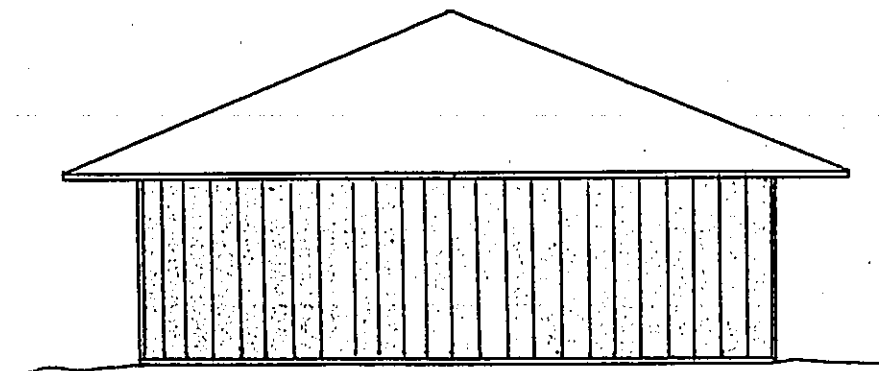
GARAGE - ELEVATIONS



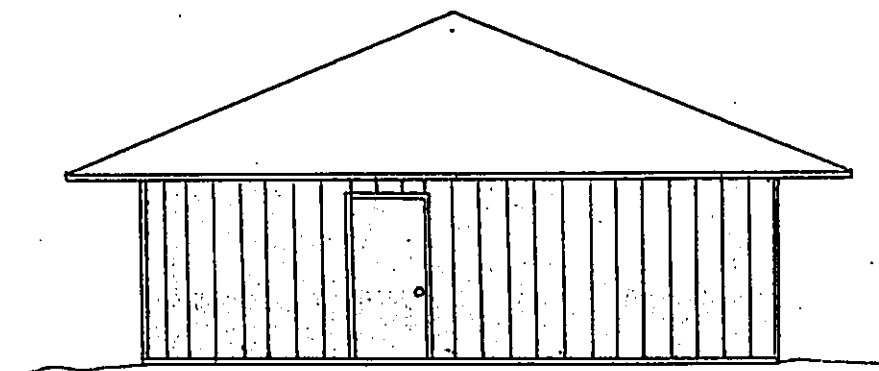
SOUTH ELEVATION



NORTH ELEVATION

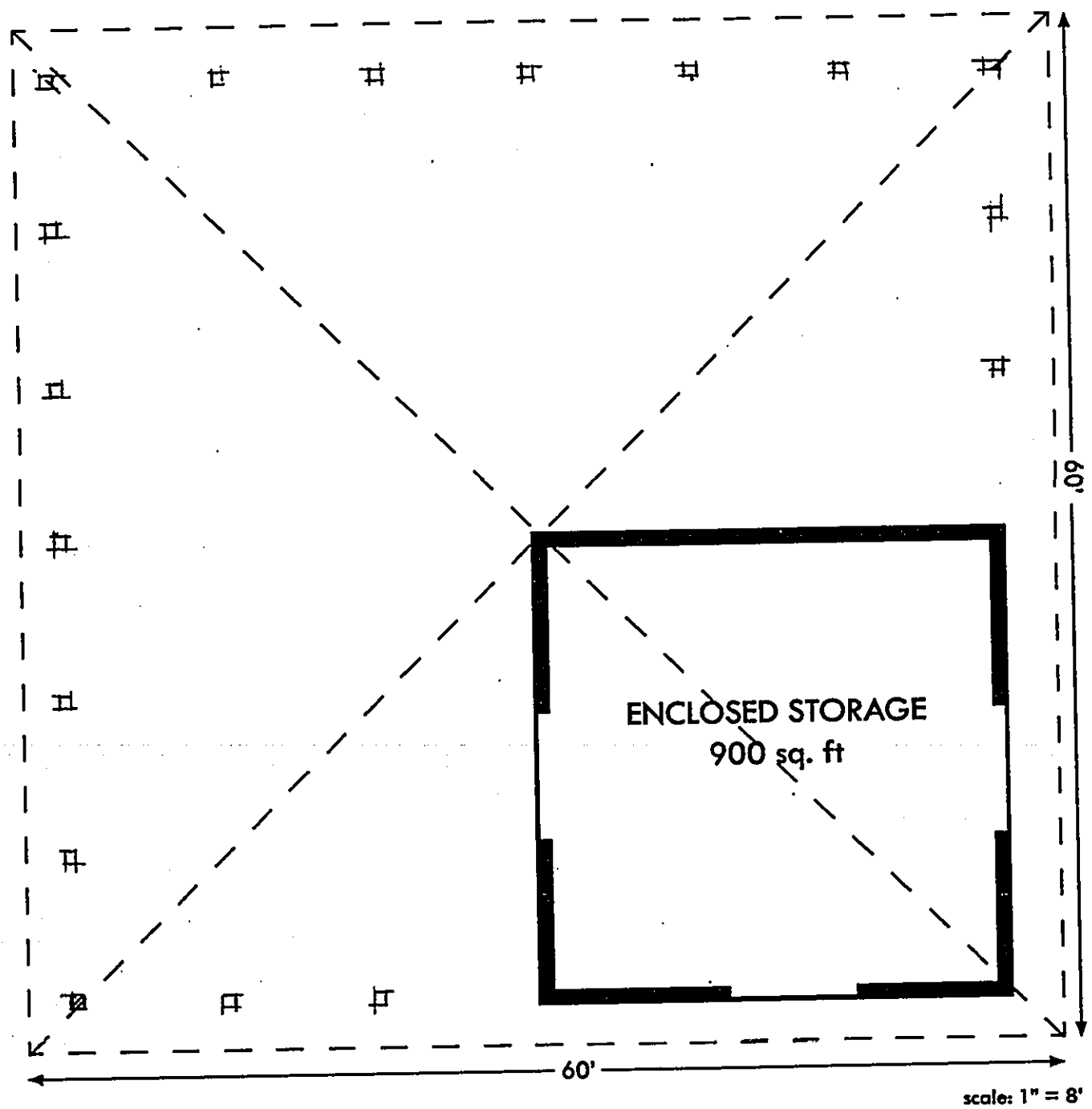


EAST ELEVATION

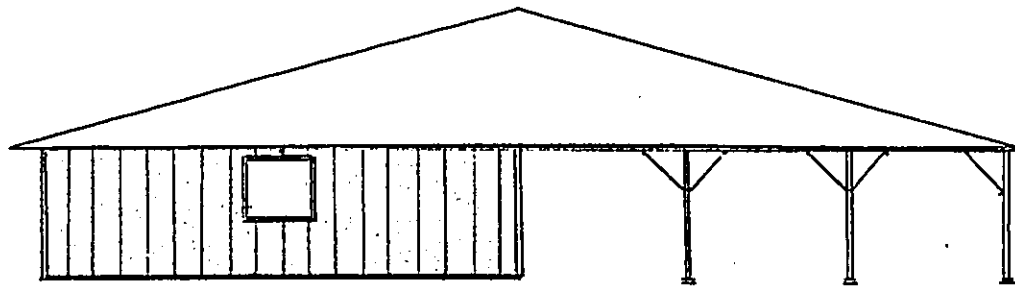


WEST ELEVATION

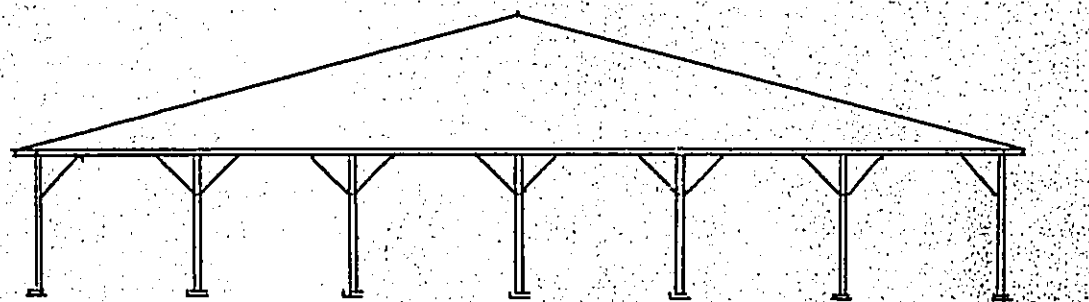
AGRICULTURAL SHED PLAN



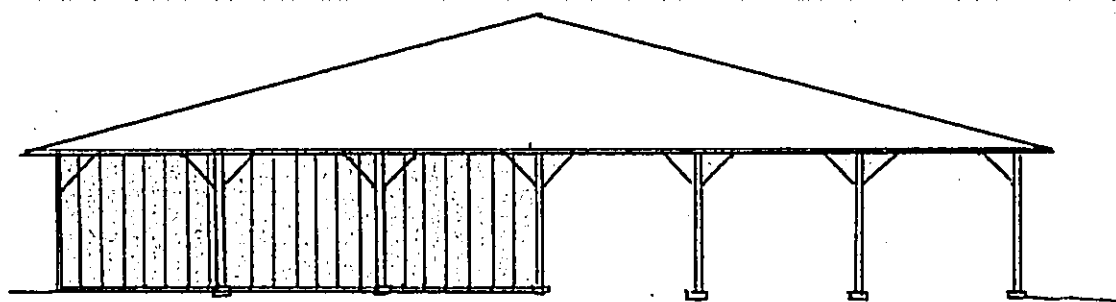
AGRICULTURAL SHED - ELEVATIONS



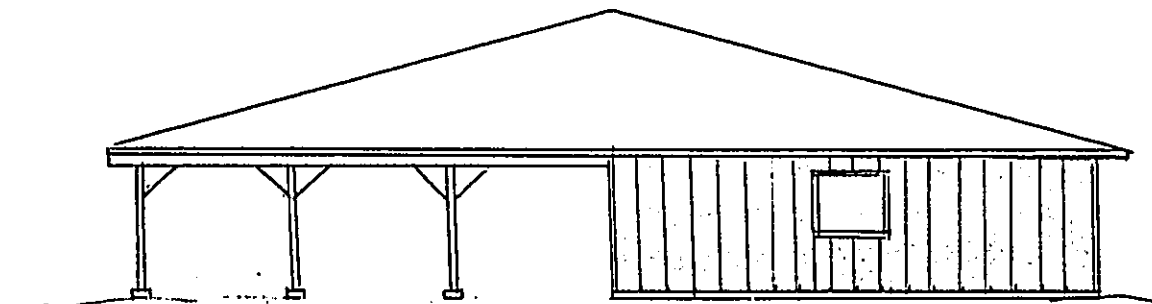
SOUTH ELEVATION



NORTH ELEVATION

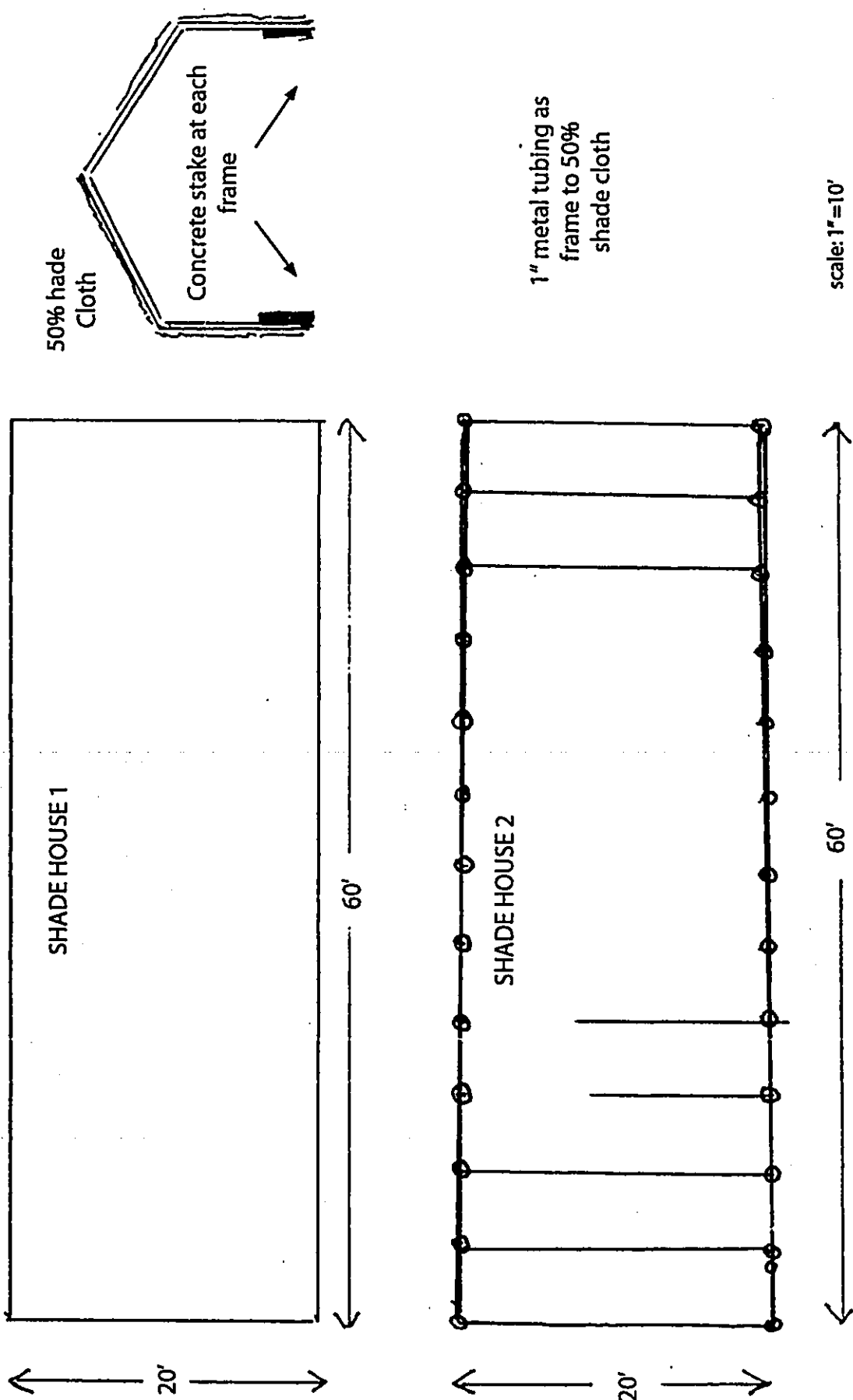


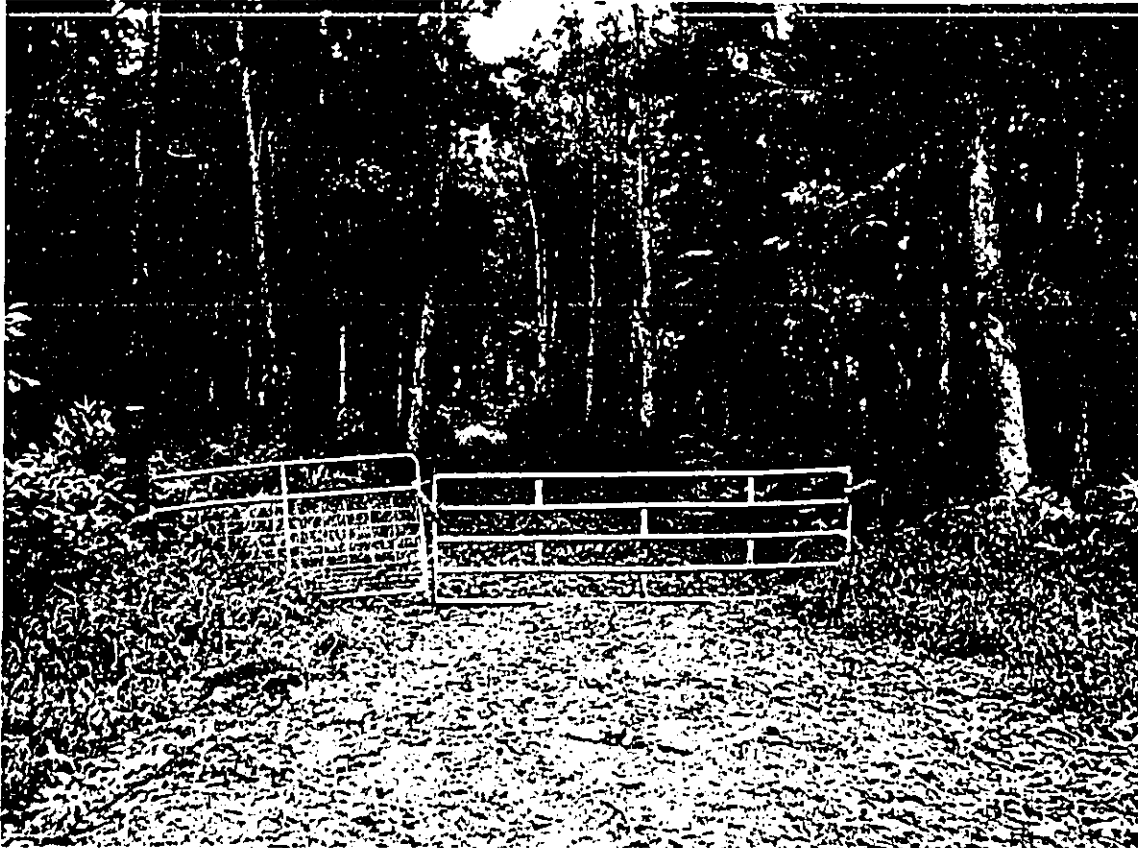
EAST ELEVATION



WEST ELEVATION

SHADE CLOTH HOUSES



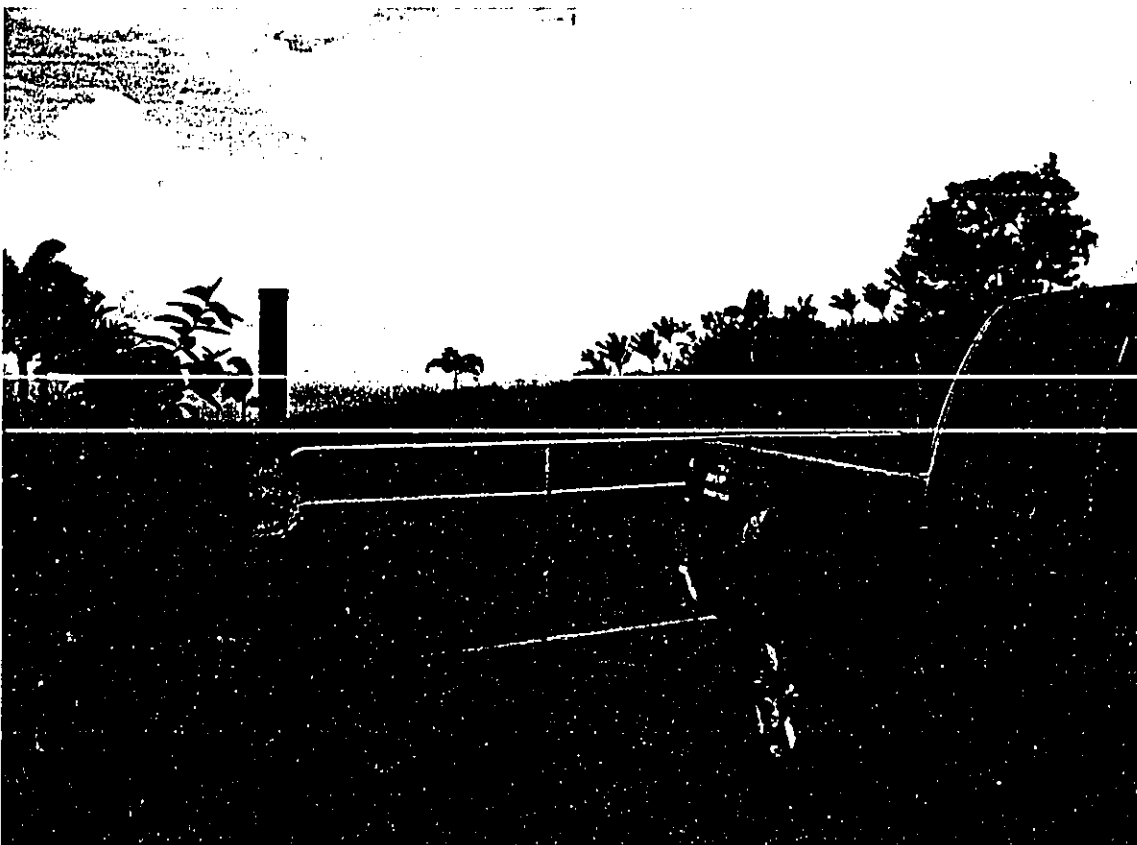


Front gate at begining of access easement (*from/to Hana Hwy*)





property boundary (shown in red) - access easment beyond



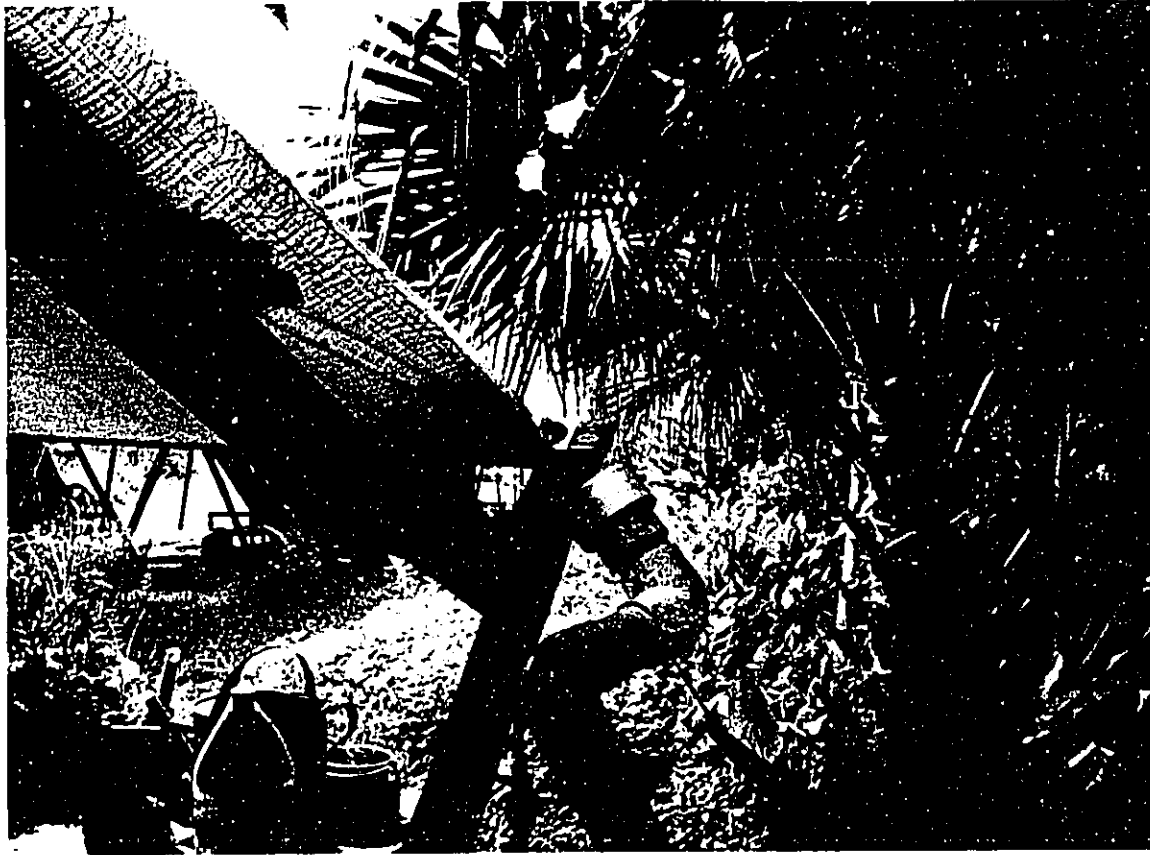
Front gate (inside property boundary)



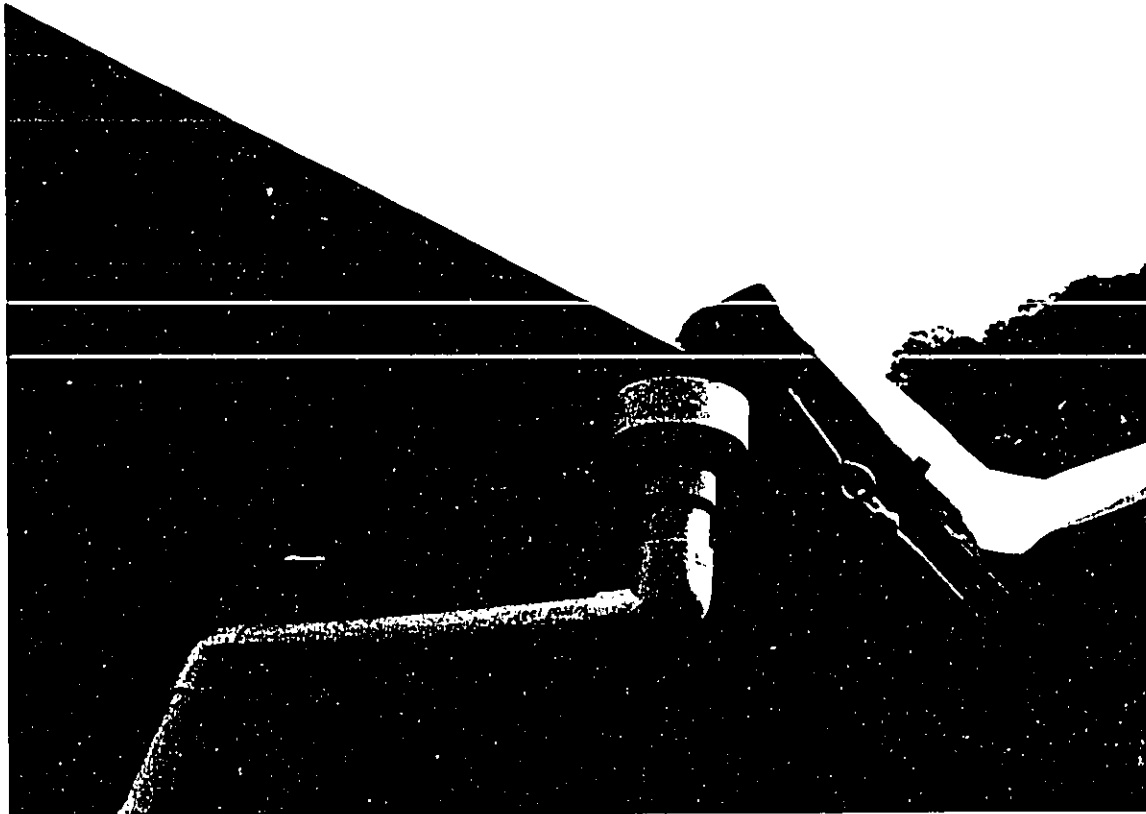
Existing tent catchment structure



Tent interior

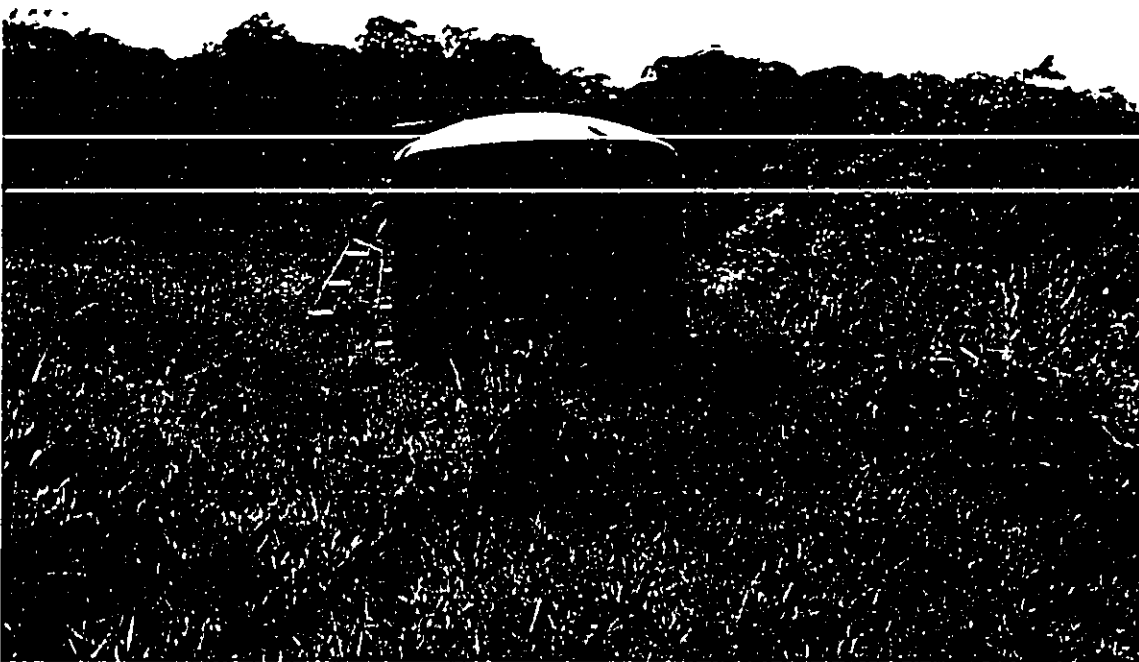


Existing catchment system - off of tent roofs





Four existing 2,000 gallon water storage tanks





Proposed house site (*facing north*)



Proposed house site (*facing south*)



Proposed house site (*facing west*)



Proposed house site (*facing east*)



Proposed three acre re-forestation area (*in distance just beyond power lines*)



Section of proposed three acre re-forestation area (*overgrown with non-native species*)

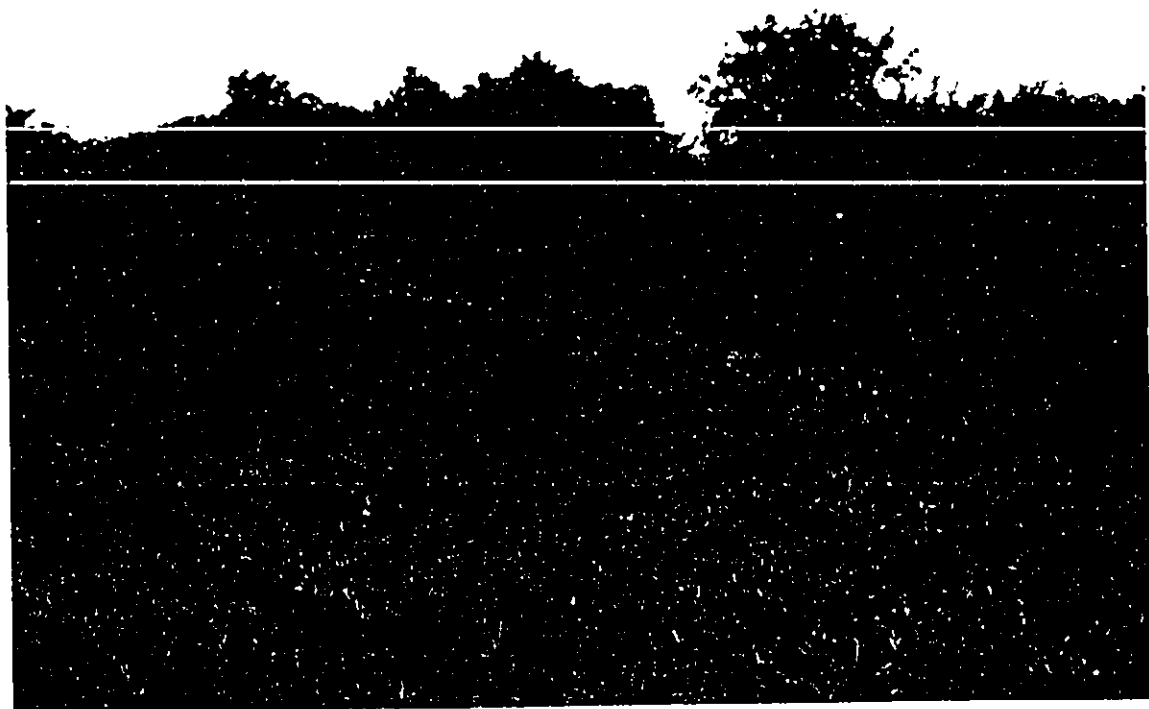


Proposed site of agricultural shed replacing existing tents (*below*)
and extending into adjacent level field (*above*)





Existing driveway (access to proposed house site)





Proposed area for two shade cloth houses





Existing electric infrastucture (via *MECO easment*)





Areas of proposed existing driveway improvements (*well over 20% grade*)





Existing container



CCCCCCCCCCCCCCCCCC

Melissa Kirkendall
DLNR, State Historic Preservation Division
130 Mahalani,
Wailuku, Hawaii 96793

Dear Ms. Kirkendall,

My husband and I recently purchased 63 acres of conservation land; TMK 2-1-2-01-04 at Keanae Maui. This property has been used for grazing cattle since before statehood. The property has been graded and grubbed intermittently since 1963. We are planning on building a single family dwelling and propagating Native Hawaiian trees. My husband has owned Native Hawaiian Tree Source for ten years.,

A past CDUA, MA-2671 was submitted in August 1993. A field inspection was done by Thersa Donham on July 20, 1993.

At present we have no knowledge of any archaeological sites or rare native plants on the parcel other than the King's Trail. We have already consulted with Ms. Nohara from Na Ale Hale Trails. We plan on building our home mauka to the King's Trail. All of our structures and planting will be mauka to the King's Trail. I have enclosed a site map of our tentative plans for your review.

We are inviting you for an onsite inspection at your convenience. We ask for your assistance in the CDUA. We understand that some type of archaeological survey and inventory will be needed. Your guidance will be much appreciated. Thank you.

Sincerely,

Dr. Deborah Mathias
1630 Piihola Road
Makawao, Maui, Hawaii
96768
808-572-6180



**Maui Na Ala Hele
Trails & Access Program**

June 13, 2005

Deborah Mathias M.D. and David Niehaus
1630 Piihola Road
Makawao, Hawaii 96768

Dear Doctor Mathias and Mr. Niehaus,

RE: Site Visit, TMK 2-1-2-01:004, Kaliae, Maui.

Thank you for the opportunity to re-visit the parcel of land recently purchased by your family. As you know, I visited the parcel when the Weaver's owned it and walked both sections of the trail leading into the gulches from your property. The trails leading into Kopiliula and Wailuaiki are both in remarkable condition. Unfortunately the connecting trail across the ridge top was destroyed several years ago and the route is largely undeterminable. By looking at old maps and on-the-ground evidence, it is fairly obvious the trail was well below 500 feet elevation and probably stayed below 400 feet elevation everywhere except at the top of the Kopiliula Gulch where it may have gotten as high as 450 feet elevation. Current GPS equipment would be able to determine the elevation +/- 40 feet, depending on the accuracy of the equipment.

If you have any further questions, please call me at (808) 873-3508.

Torrie Nohara
Trails and Access Specialist

July 22, 2005

DLNR

Commission of Water Resource Management
Po Box 621 Honolulu, Hawaii 96809

Dear Mr. Higa,

TMK 2-1-2-01-04

My husband and I are getting ready to submit a CDUA and Environmental Assessment for the 63 acre piece in Kaliae, Maui. We are planning on building a single family residence on the east side of the property well mauka to the King's Trail. My husband owns Native Hawaiian Tree Source and is planning on doing a nursery at the top of the property to propagate these trees. Our water source will be from rain water catchment for our personal use and for the plants. Waste water treatment system will be via a Department of Health approved septic system.

I am contacting you to ask your assistance. I will need a letter from your department stating that the past violation regarding the stream diversion SCAP-MA-350 has been resolved. I would also appreciate any advice that you may have regarding this project and the bordering streams.

Thank you,

Sincerely

Deborah Mathias
1630 Piipolo Road
Makawao, Maui
Hawaii
96768
808-572-6180

July 22, 2005
Ke'anae- Waiuanui Community Association

Dear Ke'anae- Waiuanui,

My husband and I have recently purchased the 63 acre piece of property at Kaliae, Maui. I have been a practicing physician on Maui for the past 27 years at Maui Medical Group. My husband, David Niehaus is a retired contractor and has owned and operated Native Hawaiian Tree Source for the last ten years.

We are planning on building a single family residence far mauka to the King's Trail on the Nahiku side of the property. We would like to propagate Native Hawaiian trees at the top of the property in a nursery. Our long term goal is to reforest approximately 6 acres of the property with Ohia, Llama, Lau hala and Hapu'u. No commercial activity will take place on the property. The single family dwelling and the green houses should not be visible from the Hana Highway or the coastline.

We do not plan on doing any construction or planting near or makai of the King's Trail, Our water will be from rain catchment.

We would like to meet with your Association, as we look forward to being your neighbor and do wish to have your input regarding this project.

Thankyou,
Sincerely,

Deborah Mathias
1630 Piipolo Road
Makawao, Maui
96768
572-6180

July 22, 2005
NARS
DLNR
54 High St.
Wailuku, Maui
Hawaii 96793

Dear Mr. Evanson,

Our family has recently purchased a 63 acre piece of property at Kaliae Maui TMK 2-1-2-01-04. We are in the process of submitting a CDUA/Environmental Assessment for a single family dwelling and a nursery to propagate Native Hawaiian Trees. We plan on doing a reforestation of approximately 6 acres with indigenous tress. My husband has owned and operated Native Hawaiian Tree Source for over ten years. We are asking NARS to make an onsite inspection and give us any recommendations that they may have

Thankyou,

Dr. Deborah Mathias
6180 Piihola Road
Makawao, Maui
Hawaii
96768
808-572-6180

July 22, 2005
Maui District Land Office
DLNR
54 High St.
Wailuku,
Maui, Hawaii
96768

Dear Mr. Ornellas
Our family recently purchased 63 acres at Kaliae, Maui. TMK 2-1-2-01-04.
We are in the process of completing a CDUA for a single family dwelling and a nursery
to propagate Native Hawaiian Trees. My husband has owned Native Hawaiian Tree
Source for over 10 years. This parcel is surrounded by the Koolau State Forest. We
would appreciate any assistance or recommendations regarding this project.

Thankyou,
Sincerely

Deborah Mathias
1630 Piihola Road
Makawao, Maui
96768
572-6180

July 22,2005

Engineering Division
DLNR
54 High Street
Wailuku, Maui
Hawaii, 96768

Re TMK 2-1-2-01-04
Kaliae, Maui
Hawaii

Dear Mr. Powers

Our family has recently purchased the 63 acre Conservation district piece of property at Kaliae. We are in the process of preparing the CDUA for a single family dwelling, plant nursery, and six acres of reforestation of Native Hawaiian trees.. This parcel is surrounded by State Forest. There is an easement through the forest from the Hana Highway to the top of the property. Dawn Hagger, OCCL, recommended that we contact you regarding any concerns or advise that you may have. We would welcome an onsite inspection at your convenience.

Thankyou
Sincerely,

Deborah Mathias and David Niehaus
1630 Piihola Road
Makawao, Maui
Hawaii, 96768
808-572-6180

July 22, 2005
Mr. Francis Cerizo
Planning Department County of Maui
Wailuku, Maui , Hawaii 96793

Dear Mr. Cerizo,
We would like to set up a meeting to discuss our plans to build a single family dwelling,
and Native Hawaiian Tree Nursery at Kaliae, Maui TMK 2-1-2-01-04. This property is
zoned Conservation, General Subzone and is in the Coastal Zone Management. We
would appreciate your department's review and comments on the proposed Project. I will
be calling you for an appointment.

Thankyou,
Sincerely

David Niehaus
1630 Piipolo Road
Makawao, Maui
572-6180

Natural Resource Conservation Services
USDA
210 Imi Kala Ste 209
Wailuku, Maui
Hawaii 96793

Dear Sir,

Our family is planning on building a single family dwelling at Kaliae, Maui TMK 2-1-2-01-04. This 63 acre property is zoned Conservation General Subzone. We are in the process of preparing a Draft Environmental Assessment and CDUA in accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5. We would appreciate your department's review and comments on the proposed Project. These comments will be submitted to the DLNR and the Office of Environmental Quality Control for publication and review.

Thankyou
Sincerely

David Niehaus and Deborah Mathias
1630 Piiholo Road
Makawao, Maui
Hawaii
96768
808-572-6180



Our People...Our Islands...In Harmony

USDA KEALAKEKUA
SERVICE CENTER
81-948 Waena 'Oihana Lp
CKC Bldg B Suite 101
Kealahou, HI 96750
Phone: 808-322-2484
FAX: 808-322-3735

September 26, 2003

TO: Ranae Ganske
Maui County Resource Conservationist
Wailuku Service Center

FROM: Carol Kawachi
Cultural Resources Specialist

SUBJECT: L & L Weaver
Kaliae, Ko'olau, Hana, Maui
TMK: 1-2-01:04

Thank you for the opportunity to review this project for cultural resources.
This review will be based on limited literature and map search.

Ranae Ganske took Carol Kawachi out to the site for a field check on Monday, 7 July 2003. The client walked us around the property, from below the previously cleared areas to the edge of the cliff, pointing out the cliff trails.

The subject parcel had previously been bulldozed. There are dirt mounds and roads evident of such activity. No surface remains of cultural resources were observed.

The proposed conservation practices will have no effect on historic properties.

If you have any questions, please contact Carol Kawachi at (808) 322-2484 x105 or carol.kawachi@hi.usda.gov.

CULTURAL RESOURCES REVIEW
Kallae Ahupua'a, Ko'olau, Hana, Maui
TMK: 1-2-01:04

The 63 acre (25.5ha) project parcel is located in Kallae Ahupua'a, Hana District, on the northeastern end of Maui island. Wailuaiki Bay is at the northwestern edge with Papiha Point and Makoloaka Island at the very northern tip of the project parcel.

The roughly triangular shaped parcel extends from the top of the cliff up to nearly the 1400 feet (427m) elevation contour. The parcel is bounded by steep cliffs on all sides. A Forest Reserve line defines the western boundary of the subject parcel.

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The cliff overlooks Wailua Bay to the northwest. The cliff is quite high and steep. A wide level area on the northwest side of Wailua Bay was probably the preferred area for habitation. The cliff would have been a good area to "spot" for fishes, etc., out in the ocean.

Annual rainfall is 90 - 160 inches (2286 - 4064mm). Handy described this side of Maui as "the wettest coastal region in all the islands" (1972:498).

The soil is described as silty clay on 3 to 25 percent slopes.

The land was part of Grant 1164. Grants were "deeds issued by the Hawaiian government, ... for various purposes" (Lucas 1995:21).

The tax map shows an old road crossing the parcel west to east approximately 38 - 263 feet (11.5 - 80m) from the coast. The road has long been overgrown and abandoned. According to the client, he believes this to be part of the old "King's Trail." The client says he uses the trail on both the east and west side of his parcel to go up and down the cliff face.

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Deleted: The land is zoned State Conservation Land. What does this mean for the landowner? Are there restrictions? Landowner is required to meet all State regulations in regards to permits act on any type land development. Note this does have to be in your report.

According to the State Historic Preservation Division web site, no previous archaeological surveys have been done in the area.

The current practice is Twelve Critical Area plantings. The proposed practices are:

1. brush management,
2. contour orchard and fruit area,
3. tree shrub establishment.
4. erosion control
5. conservation cover: perennial peanut, grasses continue to plant in designated areas. Note: This really doesn't have to be documented in your report because it is documented on the plan.
- 6) Critical Area (Planting

Ranac, could you combine the above two paragraphs into one, please. The information was gathered from two separate messages you had sent me (dated 4/04/03 & no date on the other). ???

Approximately 53 acres (21.4ha) will be left in pasture which is vegetated with a common windward pasture grass that produces a very dense mat. There is no livestock currently on the property although it was formerly in pasture. The uppermost 10 acres (4ha) has been bulldozed where the residence and farm structures have been constructed. Perennial peanut has been planted as ground cover.

The Area of Potential Effect (APE) for the above practices will be 53 acres between the 200' and 1400' elevation contours.

The *ahupua'a* name Kallae or Kallai (Sterling 1998: 108) was not found in Place Names of Hawaii (1981). The *ahupua'a* per se may not have played a major role in Maui's history but its proximity to Wailua and Hana, which did, would have included Kallae, if only peripherally. Hana was a "region famous in legend and history, ... supported chiefly by fields of mulched (dry) taro cultivation and sweet potato, the small steep stream-valley called Wailua being almost the only area of wet taro nearabout" (Handy & Handy 1972:272).

Several small streams or gulches were seen on our visit. However, it is not likely that wet taro was cultivated here.

Drainage ditches: please show these on your conservation map. Ranae, you mentioned they were "undersized, ... showed signs of excessive velocities and capacity will decrease when vegetation is established." (This is clarified on our conservation plan to the best of our knowledge which includes an engineering design in folder.)

According to the map (Dorrance 2000:60) and information in Sugar Islands (2000), the subject area appears not to have been cultivated in sugar.

There is very little information on Kallae, suggesting it was not an outstanding area for cultivation or habitation, fishing or otherwise.

The subject parcel has been bulldozed in the recent past by previous landowners. There are dirt mounds and roads evident of such activity.

The proposed practices will have no effect on historic properties. No surface cultural features were observed.

REFERENCES

Dorrance, William H. and Francis S. Morgan
2000 Sugar Islands. Mutual Publishing. Honolulu, Hawaii.

Handy, E.S. Craighill and Elizabeth Green Handy
1972 Native Planters in Old Hawaii. B.P. Bishop Museum Bulletin 233. Bishop Museum Press. Honolulu, Hawaii.

Lucas, Paul F. Nāhoa
1995 A Dictionary of Hawaiian Legal Land-Terms. Native Hawaiian Legal Corporation. University of Hawai'i Press. Honolulu, Hawaii.

Pukui, Mary Kawena, Samuel H. Elbert and Esther T. Mookini
1981 Place Names of Hawaii. Revised and enlarged Edition. University Press of Hawaii. Honolulu.

Starling, Elspeth P.
1998 Sites of Maut. Bishop Museum Press. Honolulu, Hawaii.

July 24.2005
Mr. George Young Chief Regulatory Branch
CEPOH-EC-R
US Army Corps of Engineers
Bldg 230
Fort Schafter
Hawaii 96858-5440

Re: TMK 2-1-2-01-04

We are in the process of submitting an Environmental Assessment and CDUA for a single family dwelling, accessory improvements and agriculture structures (two shade cloth houses, equipment and storage shed) for propagating and growing Native Hawaiian Trees on our property at Kaliae ,Maui. This Triangular parcel is bordered on two sides by state forest and by shoreline rocky cliffs on the ocean side. There are no wetlands on the property. We are writing to ask if a Department of Army Permit is required. I would appreciate any other information that you might have on this property.I have enclosed a map and a description of the project. Thank you for your anticipated assistance.

Sincerely,

Deborah Mathias
1630 Piihola Road
Makawao, Maui 96768
808-572-6180



DEPARTMENT OF THE ARMY
U. S. ARMY ENGINEER DISTRICT, HONOLULU
FT. SHAFTER, HAWAII 96858-5440

REPLY TO
ATTENTION OF

August 22, 2005

Regulatory Branch

Deborah Mathias
1630 Piiholo Road
Makawao, Hawaii 96768

Subject: Determination of Corps jurisdiction for a proposed single-family residence and agricultural structures at 1-5470 Hana Highway, Kalialae, Maui, Hawaii (TMK: (2) 1-2-01:04).

Dear Ms. Mathias:

File No. POH-2005-420

This office has reviewed the information you submitted by letter dated July 24, 2005 requesting information on Department of the Army (DA) permitting requirements for the proposed activities. The information was reviewed pursuant to Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act (RHA). Section 404 of the CWA requires that a Department of the Army (DA) permit be obtained prior to the placement or discharge of dredged and/or fill material into waters of the U.S., including wetlands (33 U.S.C. 1344). Section 10 of the RHA requires that a DA permit be obtained for certain structures or work in or affecting navigable waters of the United States (33 U.S.C. 403).

Based on your brief description of work, and reference to the United States Geological Survey (USGS) topographic quadrangle and the U.S. Fish and Wildlife Service's National Wetland Inventory (NWI) map for the project area, it does not appear that the proposed work would involve the discharge of dredged or fill material into waters of the United States; however, additional information provided in your draft Environmental Assessment (EA) should include a formal survey of wetlands for the property.

You describe the shoreline as formed by rocky cliffs along the Pacific Ocean, which forms the property's northern boundary. The ocean is subject to regulation under both Section 10 of the RHA and Section 404 of the CWA. Provided no future work is proposed below (waterward) of the Mean Higher High Water (MHHW) mark on the shoreline, no DA permit will be required. You are strongly encouraged to contact this office for a determination of DA jurisdiction if any such work is proposed.

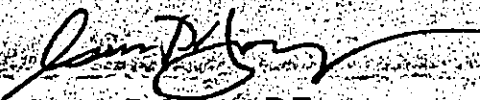
This letter does not relieve you of responsibility to obtain all applicable Federal, state or local permits. Please note that a National Pollutant Discharge Elimination System (NPDES) permit pursuant to Section 402 of the CWA, Chapter 342D of the Hawaii Revised Statutes, and Chapter 11-55 of the Hawaii Administrative Rules, may be required (NPDES typically required if the land disturbance is one (1) acre or more). You should contact the State Department of Health, Clean Water Branch at (808) 586-4309 for requirements under the NPDES statutes.

L15

Please provide a copy of the draft EA to this office for a final determination of DA jurisdiction regarding the proposed construction on the subject parcel.

For more information on our regulatory program, please visit our web site at <http://www.poh.usace.army.mil/regulatory.asp>. If you need further assistance, please contact Ms. Connie Ramsey by phone at 808-438-2039, by facsimile at 808-438-4060, or by electronic mail at Connie.L.Ramsey@usace.army.mil. Please refer to above file number for future inquiries regarding this project. Thank you for your cooperation with our regulatory program.

Sincerely,



George P. Young, P.E.
Chief, Regulatory Branch

Copy furnished:

Ed Chen, Clean Water Branch, Department of Health, P.O. Box 3378, Honolulu, HI 96801
Director, Department of Planning, County of Maui, 200 South High Street, Wailuku, HI 96793
John Nakagawa, Office of Planning, Coastal Zone Management, P.O. Box 2359, Honolulu, HI 96804

July 25,2005
Ms.Shultz
US Fish and Wildlife
Ecological Sevices
300 Ala Moana Blvd.
Room 3-122
Po 50088
Honolulu,Hawaii,96850

Dear Ms. Shulz
Re TMK 2-1-2-01-04

We are in the process of submitting an Environmental Assessment and CDUA for a single family dwelling, accessory structures and agriculture structures (two shade cloth houses and a equipment/ storage shed that is used for water catchment.)on our property that is located at Kaliae,Maui. This parcel is zoned Conservation, General Subzone. This parcel is bordered on two sides by State Forest and by shoreline ocean cliffs. The parcel is bordered on the Hana side by Kopiliula Stream and on the Keanae side by Wailuaiki Stream. We are writing to ask for your departments advise and recommendations prior to our submittal of the CDUA.

Thankyou for your anticipated response.

Sincerely.

Deborah Mathias
1630 Piiholo Road
Makawao.Maui
Hawaii.96768
808-572-6180

NOTE FROM U.S. FISH & WILDLIFE SERVICE



FACSIMILE TRANSMITTAL SHEET

TO: Dr. Deborah Mathias	FROM: Christa Russell
FAX: 808/572-1722	DATE: 8/19/05
NUMBER OF PAGES, INCLUDING COVER: 2	

NOTES/COMMENTS:

Dr. Mathias:

According to our endangered & threatened species data, there is designated critical habitat for the endangered Mariscus pennatifolius (no common name), a type of sedge, along the coastal edge of TMK (2)1-2-001:004.

There is designated critical habitat for the endangered Ischaemum byrson (Hilo Ischaemum), a type of grass, adjacent to the above TMK.

300 ALA MOANA BLVD., ROOM 3-122
P.O. BOX 50088 • HONOLULU, HI 96850
PHONE: (808) 792-9400 • FAX: (808) 792-9581 L18

Office of Hawaiian Affairs
140 Hoohana
Ste.206 Kahului,96732

Re TMK 2-1-2-01-04
Kaliae, Maui

We are in the process of submitting an Environmental Assessment and CDUA for a single family residence, accessory improvements and agriculture structures (two shade cloth houses, and a storage shed for water catchment) for propagating and growing Native Hawaiian Trees on our property at Kaliae, Maui. This triangular shaped parcel is bordered on two sides by the State Forest and by the shoreline rocky cliff son the ocean side. We would appreciate your input and advise on this project. Thank you for your anticipated response.

Sincerely,

Deborah Mathias and David Niehaus
1630 Piihola Rd.
Makawao, Maui
96768
572-6180

C C



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. 22,425

March 1, 1996

PERPETUAL NON-EXCLUSIVE ACCESS EASEMENT

Kaliae, Hana, Maui, Hawaii

Being a portion of the Government Land of Kaliae.

Being also a portion of Koolau Forest Reserve, Governor's
Proclamation dated June 12, 1907 as modified by Governor's
Proclamation dated May 2, 1938.

Beginning at the northwest corner of this easement and on the north
side of Hana Highway, the coordinates of said point of beginning referred to
Government Survey Triangulation Station "PAUWALU" being 13,877.50 feet South
and 542.63 feet West, thence running by azimuths measured clockwise from True
South:-

1. Along the remainder of Koolau Forest Reserve on a curve to the left with a radius
of 15.00 feet, the chord azimuth and
distance being:
271° 14' 40" 19.82 feet;
2. 229° 54' 90.84 feet along the remainder of Koolau Forest
Reserve;
3. Thence along the remainder of Koolau Forest Reserve on a curve to the right
with a radius of 256.00 feet, the chord
azimuth and distance being:
232° 41' 24.86 feet;
4. 235° 28' 333.00 feet along the remainder of Koolau Forest
Reserve;
5. Thence along the remainder of Koolau Forest Reserve on a curve to the left with
a radius of 404.00 feet, the chord azimuth
and distance being:
215° 30' 275.91 feet;

EXHIBIT "A"

March 1, 1996

6. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 611.00 feet, the chord azimuth and distance being:
213° 17' 372.54 feet;
7. 231° 02' 204.00 feet along the remainder of Koolau Forest Reserve;
8. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 504.00 feet, the chord azimuth and distance being:
221° 00' 175.62 feet;
9. 210° 58' 320.00 feet along the remainder of Koolau Forest Reserve;
10. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 138.00 feet, the chord azimuth and distance being:
238° 20' 126.87 feet;
11. 265° 42' 83.00 feet along the remainder of Koolau Forest Reserve;
12. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 176.00 feet, the chord azimuth and distance being:
283° 41' 108.68 feet;
13. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 99.00 feet, the chord azimuth and distance being:
265° 15' 117.54 feet;
14. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 628.00 feet, the chord azimuth and distance being:
222° 56' 129.11 feet;
15. 217° 02' 121.00 feet along the remainder of Koolau Forest Reserve;
16. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 282.00 feet, the chord azimuth and distance being:
232° 25' 149.62 feet;
17. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 327.00 feet, the chord azimuth and distance being:
234° 04' 155.26 feet;

March 1, 1996

18. 220° 20' 109.00 feet along the remainder of Koolau Forest Reserve;
19. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 430.00 feet, the chord azimuth and distance being:
202° 15' 266.94 feet;
20. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 260.00 feet, the chord azimuth and distance being:
203° 27' 171.72 feet;
21. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 602.00 feet, the chord azimuth and distance being:
207° 29' 316.69 feet;
22. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 141.00 feet, the chord azimuth and distance being:
210° 54' 90.26 feet;
23. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 371.00 feet, the chord azimuth and distance being:
237° 02' 96.42 feet;
24. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 131.00 feet, the chord azimuth and distance being:
221° 07' 103.98 feet;
25. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 228.00 feet, the chord azimuth and distance being:
200° 26' 30" 21.55 feet;
26. 13° 35' 50.91 feet along Grant 1164 to Stephen Grant;
27. 225° 35' 13.33 feet along Grant 1164 to Stephen Grant;
28. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 143.00 feet, the chord azimuth and distance being:
44° 37' 30" 97.23 feet;
29. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 359.00 feet, the chord azimuth and distance being:
57° 02' 93.30 feet;

March 1, 1996

30. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 129.00 feet, the chord azimuth and distance being:
30° 54' 82.58 feet;
31. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 614.00 feet, the chord azimuth and distance being:
27° 29' 323.00 feet;
32. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 248.00 feet, the chord azimuth and distance being:
23° 27' 163.80 feet;
33. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 442.00 feet, the chord azimuth and distance being:
22° 15' 274.39 feet;
34. 40° 20' 109.00 feet along the remainder of Koolau Forest Reserve;
35. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 339.00 feet, the chord azimuth and distance being:
54° 04' 160.96 feet;
36. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 270.00 feet, the chord azimuth and distance being:
52° 25' 143.25 feet;
37. 37° 02' 121.00 feet along the remainder of Koolau Forest Reserve;
38. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 640.00 feet, the chord azimuth and distance being:
42° 56' 131.57 feet;
39. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 111.00 feet, the chord azimuth and distance being:
85° 15' 131.79 feet;
40. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 164.00 feet, the chord azimuth and distance being:
103° 41' 101.27 feet;

March 1, 1996

41. 85° 42' 83.00 feet along the remainder of Koolau Forest Reserve;
42. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 126.00 feet, the chord azimuth and distance being:
58° 20' 115.84 feet;
43. 30° 58' 320.00 feet along the remainder of Koolau Forest Reserve;
44. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 516.00 feet, the chord azimuth and distance being:
41° 00' 179.80 feet;
45. 51° 02' 204.00 feet along the remainder of Koolau Forest Reserve;
46. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 599.00 feet, the chord azimuth and distance being:
33° 17' 365.23 feet;
47. Thence along the remainder of Koolau Forest Reserve on a curve to the right with a radius of 416.00 feet, the chord azimuth and distance being:
35° 30' 284.11 feet;
48. 55° 28' 333.00 feet along the remainder of Koolau Forest Reserve;
49. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 244.00 feet, the chord azimuth and distance being:
52° 41' 23.70 feet;
50. 49° 54' 90.84 feet along the remainder of Koolau Forest Reserve;
51. Thence along the remainder of Koolau Forest Reserve on a curve to the left with a radius of 15.00 feet, the chord azimuth and distance being:
8° 33' 20" 19.82 feet;

22,425

C.S.P. No.

March 1, 1996

52. Thence along the north side of Hana Highway on a curve to the left with a radius of 150.00 feet, the chord azimuth and distance being:
139° 54' 38.18 feet
to the point of beginning and containing an
AREA OF 48,008 SQUARE FEET OR
1.102 ACRES.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By:

Glenn J. Kodani

Glenn J. Kodani
Land Surveyor

gm

Compiled from map furnished by
Sherman D. DePonte and
Govt. Survey Records.
TMK: 1-2-01:For. 03

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII

BUREAU OF CONVEYANCES

DATE APR 22 1996 10:45 AM
DOCUMENT NO. 96-054903

LAND COURT SYSTEM)
Return by Mail () Pickup (X) To: REGULAR SYSTEM

DEPT. OF LAND AND NATURAL RESOURCES
LAND MANAGEMENT DIVISION

Tax Map Key No. (2) 1-2-01:por. 03

GRANT OF NON-EXCLUSIVE EASEMENT

THIS INDENTURE, made and entered into this 22nd day
of April, 1996, by and between the STATE OF HAWAII,
by its Board of Land and Natural Resources, hereinafter referred
to as the "Grantor," and MICHAEL J. BOTEILHO, unmarried, as
tenant in severalty, whose residence and mailing address is 2116
Naalae Road, Kula, Maui, Hawaii 96790, hereinafter referred to
as the "Grantee."

WITNESSETH THAT:

The Grantor, for and in consideration of the sum of
ONE THOUSAND FOUR HUNDRED FORTY AND NO/100 DOLLARS (\$1,440.00),
the receipt of which is hereby acknowledged, and of the terms,
conditions, and covenants herein contained, and on the part of
the Grantee to be observed and performed, does hereby grant unto
the Grantee, the following non-exclusive and perpetual easement
rights:

Right, privilege, and authority to construct,
use, maintain, and repair an access easement,

in, over, under and across that certain parcel of land situate
at Kaliae, Hana, Maui, Hawaii, being identified as "Perpetual
Non-Exclusive Access Easement," being a portion of the

Government Land of Kaliae, being also a portion of Koolau Forest Reserve, Governor's Proclamation dated June 12, 1907 as modified by Governor's Proclamation dated May 2, 1938, containing an area of 48,008 square feet or 1.102 acres, more particularly described in Exhibit "A" which is attached hereto and made a part hereof, said exhibit being a survey description prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, designated C.S.F. No. 22,425 and dated March 1, 1996, TOGETHER WITH the rights of ingress and egress to and from the easement area for all purposes in connection with the rights hereby granted.

TO HAVE AND TO HOLD the easement rights unto the Grantee, its successors and assigns, in perpetuity, SUBJECT, HOWEVER, to the following terms, conditions and covenants:

1. The Grantee shall at all times with respect to the easement area use due care for public safety and agrees to indemnify, defend, and hold the Grantor harmless from and against any claim or demand for loss, liability, or damage, including claims for bodily injury, wrongful death, or property damage, arising out of or resulting from: 1) any act or omission on the part of the Grantee relating to the Grantee's use, occupancy, maintenance, or enjoyment of the easement area; 2) any failure on the part of the Grantee to maintain the easement area and sidewalks, roadways and parking areas adjacent thereto in the Grantee's use and control, and including any accident, fire or nuisance, growing out of or caused by any failure on the part of the Grantee to maintain the easement area in a safe condition; and 3) from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of the Grantee's non-observance or non-performance of any of the terms, covenants, and conditions of this grant of non-exclusive easement or the rules, regulations, ordinances, and laws of the federal, state, municipal or county governments.

2. The Grantor reserves unto itself, its successors and assigns, the full use and enjoyment of the easement area and to grant to others rights and privileges for any and all purposes affecting the easement area, provided, however, that the rights herein reserved shall not be exercised by the Grantor and similar grantee(s) in any manner which interferes unreasonably with the herein Grantee in the use of the easement area for the purposes for which this easement is granted.

3. All improvements placed in or upon the easement area by the Grantee shall be done without cost or expense to the Grantor and shall remain the property of the Grantee and

may be removed or otherwise disposed of by the Grantee at any time; provided, that the removal shall be accomplished with minimum disturbance to the easement area which shall be restored to its original condition, or as close thereto as possible, within a reasonable time after removal.

4. Upon completion of any work performed in or upon the easement area, the Grantee shall remove therefrom all equipment and unused or surplus materials, if any, and shall leave the easement area in a clean and sanitary condition satisfactory to the Grantor.

5. This easement or any rights granted herein shall not be sold, assigned, conveyed, leased, mortgaged, or otherwise transferred or disposed of, directly or by operation of law, except with the prior written consent of the Grantor.

6. The Grantee shall keep the easement area and the improvements thereon in a safe, clean, sanitary, and orderly condition, and shall not make, permit or suffer, any waste, strip, spoil, nuisance or unlawful, improper, or offensive use of the easement area.

7. Should future development necessitate a relocation of the easement granted herein, or any portion thereof, the relocation shall be accomplished at the Grantee's own cost and expense; provided, however, that if other lands of the Grantor are available, the Grantor will grant to the Grantee without payment of any monetary consideration, a substitute easement of similar width within the reasonable vicinity of the original alignment, which substitute easement shall be subject to the same terms and conditions as that herein granted and as required by law.

8. The Grantee covenants, for itself, its successors and assigns, that the use and enjoyment of the land herein granted shall not be in support of any policy which discriminates against anyone based upon race, creed, sex, color, national origin, religion, marital status, familial status, ancestry, physical handicap, disability, age or HIV (human immunodeficiency virus) infection.

9. The Grantee, in the exercise of the rights granted herein, shall comply with all of the requirements of the federal, state, and county authorities and shall observe all county ordinances and state and federal statutes, rules and regulations, now in force or which may hereinafter be in force.

10. These easement rights shall cease and terminate, and the easement area shall revert to the Grantor, without any

action on the part of the Grantor, in the event of non-use or abandonment by the Grantee of the easement area, or any portion thereof, for a consecutive period of one (1) year.

11. The Grantee shall, upon termination and/or revocation of this easement, peaceably deliver unto the Grantor possession of the premises, together with all improvements existing or constructed thereon or Grantee shall remove such improvements and shall restore the premises to its original state, or as close thereto as possible, within a reasonable time and at the expense of the Grantee, at the option of the Grantor. Furthermore, upon the termination and/or revocation of this easement, should the Grantee fail to remove any and all of Grantee's personal property from the premises, after notice thereof, the Board may remove any and all of Grantee's personal property from the premises, and either deem the property abandoned and dispose of the property or place the property in storage at the cost and expense of Grantee and the Grantee does agree to pay all costs and expenses for disposal, removal, or storage of the personal property. This provision shall survive the termination of the easement.

12. In case the Grantor shall, without any fault on its part, be made a party to any litigation commenced by or against the Grantee as a result of this grant of non-exclusive easement (other than condemnation proceedings), the Grantee shall pay all costs, including reasonable attorney's fees and expenses incurred by or imposed on the Grantor; furthermore, the Grantee shall pay all costs, including reasonable attorney's fees and expenses, which may be incurred by or paid by the Grantor in enforcing the covenants and conditions of this grant of non-exclusive easement, or in the collection of delinquent rental, fees, taxes, and any and all other applicable charges attributed to said easement area.

13. The Grantee shall not cause or permit the escape, disposal or release of any hazardous materials except as permitted by law. Grantee shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the easement area any such materials except to use in the ordinary course of Grantee's business, and then only after written notice is given to Grantor of the identity of such materials and upon Grantor's consent which consent may be withheld at Grantor's sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by Grantee, then the Grantee shall be responsible for the reasonable costs thereof. In addition, Grantee shall execute affidavits, representations and the

like from time to time at Grantor's request concerning Grantee's best knowledge and belief regarding the presence of hazardous materials on the easement area placed or released by Grantee.

The Grantee agrees to indemnify, defend, and hold Grantor harmless, from any damages and claims resulting from the release of hazardous materials on the easement area occurring while Grantee is in possession, or elsewhere if caused by Grantee or persons acting under Grantee. These covenants shall survive the expiration or earlier termination of this easement.

For the purpose of this easement "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule, or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

14. Time is of the essence in this agreement and if the Grantee shall abandon the premises, or if this easement and premises shall be attached or taken by operation of law, or if any assignment is made of the Grantee's property for the benefit of creditors, or if Grantee shall fail to observe and perform any of the covenants, terms, and conditions contained in this easement and on its part to be observed and performed, and this failure shall continue for a period of more than sixty (60) calendar days after delivery by the Grantor of a written notice of breach or default, by personal service, registered mail or certified mail to the Grantee at its last known address and to each mortgagee or holder of record having a security interest in the premises, the Grantor may, subject to the provisions of Section 171-21, Hawaii Revised Statutes, at once re-enter the premises, or any part, and upon or without the entry, at its option, terminate this easement without prejudice to any other remedy or right of action for any preceding or other breach of contract; and in the event of termination, at the option of Grantor, all improvements shall remain and become the property of the Grantor or shall be removed by Grantee.

15. The Grantor reserves the right to withdraw the easement for public use or purposes, at any time during this grant of easement upon the giving of reasonable notice by the Grantor and without compensation.

16. The Grantee shall not mortgage, hypothecate, or pledge the premises, any portion, or any interest in this easement without the prior written approval of the Chairperson and any mortgage, hypothecation, or pledge without the approval shall be null and void.

17. In the event the Grantor seeks to forfeit the privilege, interest, or estate created by this easement, each recorded holder of a security interest may, at its option, cure or remedy the default or breach within sixty (60) calendar days, from the date of receipt of the Grantor's notice, or within an additional period allowed by Grantor for good cause, and add the cost to the mortgage debt and the lien of the mortgage. Upon failure of the holder to exercise its option, the Grantor may: (a) pay to the holder from any moneys at its disposal, including the special land and development fund, the amount of the mortgage debt, together with interest and penalties, and secure an assignment of the debt and mortgage from the holder or if ownership of the privilege, interest, or estate shall have vested in the holder by way of foreclosure, or action in lieu thereof, the Grantor shall be entitled to the conveyance of the privilege, interest, or estate upon payment to the holder of the amount of the mortgage debt, including interest and penalties, and all reasonable expenses incurred by the holder in connection with the foreclosure and preservation of its security interest, less appropriate credits, including income received from the privilege, interest, or estate subsequent to the foreclosure; or (b) if the property cannot be reasonably reassigned without loss to the State, then terminate the outstanding privilege, interest, or estate without prejudice to any other right or remedy for any preceding or other breach or default and use its best efforts to redispense of the affected land to a qualified and responsible person free and clear of the mortgage and the debt secured; provided that a reasonable delay by the Grantor in instituting or prosecuting its rights or remedies shall not operate as a waiver of these rights or to deprive it of a remedy when it may still otherwise hope to resolve the problems created by the breach or default. The proceeds of any redispensation shall be applied, first, to reimburse the Grantor for costs and expenses in connection with the redispensation; second, to discharge in full any unpaid purchase price or other indebtedness owing the Grantor in connection with the privilege, interest, or estate terminated; third, to the mortgagee to the extent of the value received by the State upon redispensation which exceeds the fair market value of the land as previously determined by the State's appraiser; and fourth, to the owner of the privilege, interest, or estate.

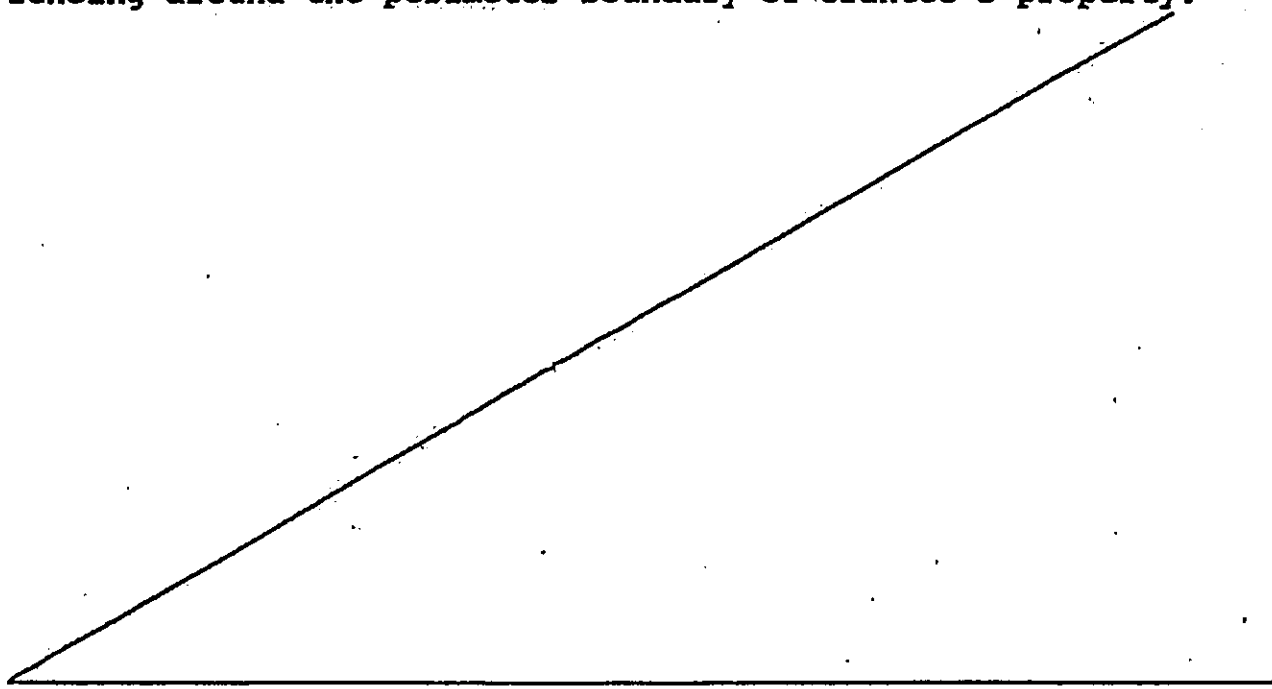
18. The easement area shall not be used at any time by the Grantee, his guests or invitees for parking or storage of any vehicle, equipment, construction materials and other items.

19. The Grantee shall procure and maintain, at its own cost and expense, in full force and effect throughout the term of this easement, commercial general liability insurance with an insurance company or companies licensed to do business in the State of Hawaii, in an amount acceptable to the Grantor. The policy or policies of insurance shall name the State of Hawaii as an additional insured. The insurance shall cover the entire easement area, including all grounds and all roadways or sidewalks on or adjacent to the easement in the use or control of the Grantee.

20. Grantee shall not construct, place or maintain any building or structure over and upon the easement area.

21. The Grantee has been granted final subdivision approval for designation of an access and utility easement on April 26, 1995 by the Department of Public Works and Waste Management, County of Maui.

22. The Grantee, prior to placement of cattle on Grantee's property, shall survey, stake, and flag his property by a licensed land surveyor and construct cattle stockproof fencing around the perimeter boundary of Grantee's property.



IN WITNESS WHEREOF, the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and the parties hereto have caused this Indenture to be executed as of the day, month, and year first above written.

STATE OF HAWAII

Approved by the Board of
Land and Natural Resources
at its meeting held on
July 23, 1993.

By Robert A. Coloma-Agaran
Chairperson and Member
Board of Land and
Natural Resources

GRANTOR

Michael J. Botelho
MICHAEL J. BOTEILHO

GRANTEE

APPROVED AS TO FORM:

Eric J. [Signature]
Deputy Attorney General

Dated: March 20, 1996

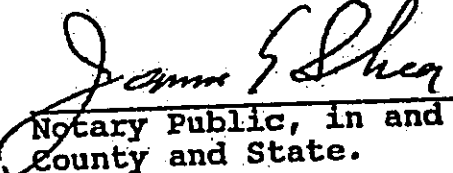
2671(3)

STATE OF CALIFORNIA

COUNTY OF STANISLAUS

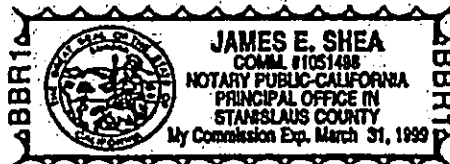
SS.

On 6 APR 96 before me personally appeared MICHAEL J. BOTEILHO, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.


Notary Public, in and for said
County and State.

My commission expires:

31 MAR 1999



SOIL QUALITY CHECKLIST

Prepared for: Business Name: Weaver

Client Name: Weaver ☐ Owner ☐ Operator

Farm #: 3165 31650 Field #: 1, 2, 3, 4

Prepared by: Name / Title: Ranae Ganske-Cerizo

Date: 9/19/02

I. PURPOSE OF CHECKLIST

May be used to assess soil quality properties. Recommendations which may be made to the client for improving the soil property are provided, if required. Instructions to planners for use of the results is also included. Complete a separate checklist for each field, if different.

The checklist is the second half of Soils Technical Note - No. 4. The first half describes the soil quality properties.

II. SOIL TO BE ASSESSED

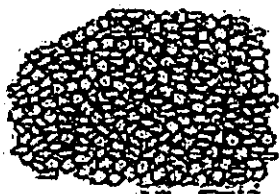
Map Unit Symbol and Name: KBID -Kailua Silty Clay

III. SURFACE LAYER ASSESSMENT

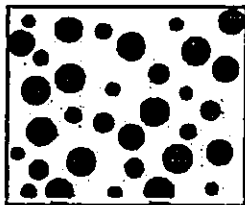
A. Structure - Check soil structure type present (you may use the illustrations below to help determine type):

- ☐ Medium granular or larger
- ☒ Fine or medium subangular blocky
- ☐ Coarse blocky *
- ☐ Massive (solid mass, no structure) *
- ☐ Single grain or sand size aggregate*

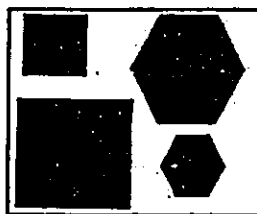
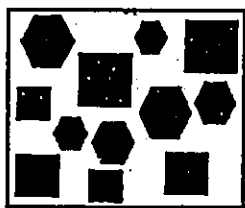
* Recommendation: Maximize organic matter inputs and minimize traffic and tillage, especially when soil too moist.



Granular



Medium: 2 to 5 mm



Subangular Blocky

Fine: 5 to 10 mm

Medium: 10 to 20 mm

B. Gravel and Cobble - Estimate the percent gravel and cobble on (in) the surface layer, and record below:

2% % gravel and cobble *

* Planner: Use with RUSLE C factor or USLE K factor &/or if AWC or USLE K adjustment factor is needed, call a soil scientist. (AWC in FOCS may be based on very different gravel %s).

C. pH - Measure the pH level of the plow layer, and record below:

6.5 pH *

* Recommendation: If less than 6.0, get a soil test for liming requirement, N, P, K, Ca, & Mg, and treat accordingly.

D. Biological Indicators - Observe earthworms and roots, and answer the following:

Are earthworms present?

☐ Yes

☒ No *

Are there more than approximately 20 roots per 1 dm² (100 cm² or roughly size of palm of hand)?

☒ Yes

☐ No *

* Recommendation: Reason may be compaction, lack of organic matter, or toxic chemical presence. Note pH, structure, and chemical use. Make recommendations to client, as appropriate (in section V. Summary).

E. Organic Matter Status - Observe organic matter status, and check appropriate type below:

☐ Folist, <6" thick *

☐ Mineral soil, reddish color & no color change to redder in subsurface. *

☒ Mineral soil, darker with redder clods present. *

☐ Mineral soil, plow layer darker than subsurface.

*Recommendation: Emphasize returning all residues to the soil. Planting a cover crop would be also beneficial.

IV. SUBSURFACE LAYER ASSESSMENT

A. Depth to Bedrock, Cemented Layer or Clinker Layer with no soil in voids (for T factor determinations) - Call a soil scientist to obtain T factor (if not named soil in FOTG) and record below:

> 40 inches inches - depth to bedrock, cemented layer or clinker layer

B. Tillage Pan - Determine if a tillage pan is present by observing if there is a massive layer below plow layer with few roots and visible pores. Also the soil is usually firm or very firm when moist, and evidence of roots running horizontally on top of pan. Record result of determination below:

☒ Yes *

☐ No

* Recommendation: Chisel or subsoil. Do not till when too moist.
Due to the slope it is very important to follow NRCS specifications in all practices to avoid erosive conditions/

C. Soil Texture, Soil Depth and Coarse Fragment Content - Does the soil texture, soil depth and coarse fragment content agree with the named soil as mapped?

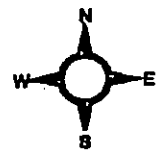
- ☒ Yes * * Planner: Use FOCS data for the named soil.
☐ No ** **Planner: Check with a soil scientist to determine if other interpretations change and if data for another soil in FOCS can be substituted.

V. SUMMARY OF RECOMMENDATIONS (to the client)

- ☐ Structure (coarse blocky, massive, or single grain) - Maximize organic matter inputs and minimize traffic and tillage, especially when soil too moist.
☐ pH (less than 6.0) - Get a soil test for liming requirement, N, P, K, Ca, & Mg and apply accordingly.
☐ Biological Indicators (no earthworms and few roots) - Recommendations are as follows: _____

- ☒ Organic Matter Status - Emphasize returning all residues to the soil. Planting a cover crop is also beneficial. *Currently plant perennial peanut*
☐ Tillage Pan (present) - Chisel or subsoil. Do not till when too moist. *NA*

17-11-12-13-14-15-16-17-18-19-20-21-22-23-24-25-26-27-28-29-30-31-32-33-34-35-36-37-38-39-40-41-42-43-44-45-46-47-48-49-50-51-52-53-54-55-56-57-58-59-60-61-62-63-64-65-66-67-68-69-70-71-72-73-74-75-76-77-78-79-80-81-82-83-84-85-86-87-88-89-90-91-92-93-94-95-96-97-98-99-100-101-102-103-104-105-106-107-108-109-110-111-112-113-114-115-116-117-118-119-120-121-122-123-124-125-126-127-128-129-130-131-132-133-134-135-136-137-138-139-140-141-142-143-144-145-146-147-148-149-150-151-152-153-154-155-156-157-158-159-160-161-162-163-164-165-166-167-168-169-170-171-172-173-174-175-176-177-178-179-180-181-182-183-184-185-186-187-188-189-190-191-192-193-194-195-196-197-198-199-200-201-202-203-204-205-206-207-208-209-210-211-212-213-214-215-216-217-218-219-220-221-222-223-224-225-226-227-228-229-230-231-232-233-234-235-236-237-238-239-240-241-242-243-244-245-246-247-248-249-250-251-252-253-254-255-256-257-258-259-260-261-262-263-264-265-266-267-268-269-270-271-272-273-274-275-276-277-278-279-280-281-282-283-284-285-286-287-288-289-290-291-292-293-294-295-296-297-298-299-300-301-302-303-304-305-306-307-308-309-310-311-312-313-314-315-316-317-318-319-320-321-322-323-324-325-326-327-328-329-330-331-332-333-334-335-336-337-338-339-340-341-342-343-344-345-346-347-348-349-350-351-352-353-354-355-356-357-358-359-360-361-362-363-364-365-366-367-368-369-370-371-372-373-374-375-376-377-378-379-380-381-382-383-384-385-386-387-388-389-390-391-392-393-394-395-396-397-398-399-400-401-402-403-404-405-406-407-408-409-410-411-412-413-414-415-416-417-418-419-420-421-422-423-424-425-426-427-428-429-430-431-432-433-434-435-436-437-438-439-440-441-442-443-444-445-446-447-448-449-450-451-452-453-454-455-456-457-458-459-460-461-462-463-464-465-466-467-468-469-470-471-472-473-474-475-476-477-478-479-480-481-482-483-484-485-486-487-488-489-490-491-492-493-494-495-496-497-498-499-500-501-502-503-504-505-506-507-508-509-510-511-512-513-514-515-516-517-518-519-520-521-522-523-524-525-526-527-528-529-530-531-532-533-534-535-536-537-538-539-540-541-542-543-544-545-546-547-548-549-550-551-552-553-554-555-556-557-558-559-560-561-562-563-564-565-566-567-568-569-570-571-572-573-574-575-576-577-578-579-580-581-582-583-584-585-586-587-588-589-590-591-592-593-594-595-596-597-598-599-600-601-602-603-604-605-606-607-608-609-610-611-612-613-614-615-616-617-618-619-620-621-622-623-624-625-626-627-628-629-630-631-632-633-634-635-636-637-638-639-640-641-642-643-644-645-646-647-648-649-650-651-652-653-654-655-656-657-658-659-660-661-662-663-664-665-666-667-668-669-670-671-672-673-674-675-676-677-678-679-680-681-682-683-684-685-686-687-688-689-690-691-692-693-694-695-696-697-698-699-700-701-702-703-704-705-706-707-708-709-710-711-712-713-714-715-716-717-718-719-720-721-722-723-724-725-726-727-728-729-730-731-732-733-734-735-736-737-738-739-740-741-742-743-744-745-746-747-748-749-750-751-752-753-754-755-756-757-758-759-760-761-762-763-764-765-766-767-768-769-770-771-772-773-774-775-776-777-778-779-780-781-782-783-784-785-786-787-788-789-790-791-792-793-794-795-796-797-798-799-800-801-802-803-804-805-806-807-808-809-810-811-812-813-814-815-816-817-818-819-820-821-822-823-824-825-826-827-828-829-830-831-832-833-834-835-836-837-838-839-840-841-842-843-844-845-846-847-848-849-850-851-852-853-854-855-856-857-858-859-860-861-862-863-864-865-866-867-868-869-870-871-872-873-874-875-876-877-878-879-880-881-882-883-884-885-886-887-888-889-890-891-892-893-894-895-896-897-898-899-900-901-902-903-904-905-906-907-908-909-910-911-912-913-914-915-916-917-918-919-920-921-922-923-924-925-926-927-928-929-930-931-932-933-934-935-936-937-938-939-940-941-942-943-944-945-946-947-948-949-950-951-952-953-954-955-956-957-958-959-960-961-962-963-964-965-966-967-968-969-970-971-972-973-974-975-976-977-978-979-980-981-982-983-984-985-986-987-988-989-990-991-992-993-994-995-996-997-998-999-1000



← Rough mts land

IRT

Kalina silty clay
KBID 13-25% slopes

IRT

Soils
Property

400 0 400 800 Feet

S19

RECORDATION REQUESTED BY:

AFTER RECORDATION, RETURN TO:

RETURN BY: MAIL () PICKUP ()

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII
Office of
BUREAU OF CONVEYANCES
Received for record this 7
day of Nov A.D. 1966
at 1:19 o'clock P.M. and
recorded in Liber 5408
on Page 123

THIS INDENTURE made this 6th day of September,
1966, by and between WALTER BOTEILHO, husband of Elizabeth F.
Boteilho, whose residence and post office addresses are, respec-
tively, Oaopio, and Kula, Island and County of Maui, State of
Hawaii, hereinafter called the "Grantor", and MAUI ELECTRIC COM-
PANY, LIMITED, a Hawaii corporation, whose principal place of
business is 210 Kamehameha Avenue, Kahului, Island and County of
Maui, State of Hawaii, and whose post office address is P. O.
Box 597, Kahului, aforesaid, and HAWAIIAN TELEPHONE COMPANY, a
Hawaii corporation, whose principal place of business and post
office address is 1130 Alakea Street, Honolulu, City and County
of Honolulu, State of Hawaii, hereinafter called the "Grantees",

W I T N E S S E T H

That the Grantor, in consideration of the sum of ONE
DOLLAR (\$1.00) to him paid, the receipt whereof is hereby ack-
nowledged, does hereby grant and convey unto the Grantees, their
respective successors and assigns, a perpetual right and easement
to build, construct, reconstruct, rebuild, repair and maintain
and operate pole and wire lines and/or underground power lines, con-
sisting of main trunk lines as well as all service lines emanating
therefrom, and to use such poles, wires, guys, conduits and other
appliances and equipment as may be necessary for the transmission
of electricity to be used for light and power and/or communica-
tions and control circuits, including the right to trim and keep
trimmed any trees in the way of said poles and wires and the right

of entry upon the property hereinafter described, for the construction, maintenance, repair and operation of said pole and wire lines and/or underground power lines, in efficient use and condition over, across, through and under that certain parcel of land, a portion of Grant 1164, situate at Kalina, Kekuapawela, Keelau, Island and County of Maui, containing an area of 63.0 acres, Tax Map Key 1-2-01-4.

Which perpetual right and easement, being sixty (60) feet wide, shall run over, across, through and under the said property according to and in accordance with the map prepared by Maui Electric Company, Limited, attached hereto and made a part hereof.

TO HAVE AND TO HOLD the same unto the Grantees, their respective successors and assigns, forever.

AND THE GRANTEES, each for itself and not for the other, do covenant and agree with the Grantor, his heirs, executors, administrators and assigns, forever:

(1) That they will use due care and diligence to keep the said lines and appurtenances installed by each of them in a good and safe condition and repair, and that they will exercise their respective rights hereunder in such manner as to occasion as little interference as reasonably necessary with the use of the said property by the owners and occupants thereof; and

(2) That they agree to indemnify said Grantor for any and all damage to the property caused by any failure of either or both of them to properly maintain or operate any of the said lines and appurtenances as provided in paragraph (1), above, and they agree to indemnify and defend said Grantor against all loss, liability, claims, suits and actions by whomsoever suffered or brought on account of any injury to person or property caused, or allegedly caused, by any failure on the part of either or both of them to observe any covenants contained in paragraph (1), above, and the Grantees agree among themselves, and on behalf of their respective successors and assigns, that each reserves any right to reimbursement or contribution, or against the other, provided

by law or any pertinent present or future agreement between them, for any liability imposed upon either or both of them as a result of such injuries.

IT IS HEREBY MUTUALLY UNDERSTOOD AND AGREED by and between the parties hereto, and on behalf of their respective heirs, executors, administrators, successors and assigns:

(a) That if at any time the property herein which rights and easements are hereby granted, or any part thereof, be condemned or taken by any authority exercising the power of eminent domain, the Grantees shall have the right to claim and recover from such condemnor, but not from the Grantor, such compensation as may be payable for their respective poles, wires, guys, conduits and other appliances and equipment installed upon the said premises and property, or any part thereof, by virtue of this easement;

(b) That upon any termination of this indenture or any abandonment of the rights and easements hereby granted, the Grantees shall promptly surrender and yield up the easement area hereinabove described and remove their respective poles, wires, guys, conduits and other appliances and equipment therefrom, and prepare, execute and record, at their expense, such document or documents as may be required to release the said property from the servitude hereby granted.

And, for the consideration aforesaid, ELIZABETH T. DOFFILHO, wife of the said Grantor, does hereby release and forever quitclaim unto the said Grantees all of her right, title and interest in and to the property and premises hereinabove described, whether by right of dower, under community property law, or otherwise.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed the day and year first above written.

Walter B. Doffilho
Walter B. Doffilho

Elizabeth T. Borelino
Elizabeth T. Borelino
Grantee.

MAUI ELECTRIC COMPANY, LIMITED.

By [Signature]
Its Executive Vice President.

By [Signature]
Its Secretary-Treasurer.

Grantee.

HAWAIIAN TELEPHONE COMPANY.

By [Signature]
Its Vice President.

By [Signature]
Its Assistant Secretary.

Grantee.

HAWAIIAN TELEPHONE CO.
ENGINEERING DEPT.

CHECKED [Signature] 10-16-66

APPROVED [Signature]

STATE OF HAWAII, }
County of Maui. } ss.

On this 5th day of September, 1966, before me personally appeared WALTER DOVEILHO and ELIZABETH T. DOVEILHO, husband and wife, respectively, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged to me that they executed the same as their free act and deed.

[Signature]
Notary Public, Second Judicial
Circuit, State of Hawaii.
My commission expires June 30, 1969

STATE OF HAWAII, }
County of Maui. } ss.

On this 3rd day of October, 1955, before me appeared R. E. LYONS and C. C. MURDOCH, to me personally known, who, being by me duly sworn, did say that they are the Executive Vice-President and Secretary-Treasurer, respectively, of MAUI ELECTRIC COMPANY, LIMITED, a Hawaii corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said R. E. LYONS and C. C. MURDOCH severally acknowledged said instrument to be the free act and deed of said corporation.

K. C. Palmer
Notary Public, Second Judicial
Circuit, State of Hawaii.

My commission expires 8-20-57

STATE OF HAWAII, }
City and } ss.
County of Honolulu. }

On this 24 day of October, 1955, before me appeared W. C. Koa and Jane D. Lowe, to me personally known, who, being by me duly sworn, did say that they are the Vice-President and Assistant Secretary, respectively, of HAWAIIAN TELEPHONE COMPANY, a Hawaii corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said W. C. Koa and Jane D. Lowe severally acknowledged said instrument to be the free act and deed of said corporation.

Edmond E. Monahan
Notary Public, First Judicial
Circuit, State of Hawaii.

My commission expires 7-15-57

KNOW ALL MEN BY THESE PRESENTS:

That in order to comply with Section 196-4 of the Revised Laws of Hawaii 1955, and to further secure and comply with the after-acquired property clause in that certain First Mortgage and Deed of Trust, as the same has been and may hereafter be amended, hereinafter referred to as the trust mortgage, executed on January 15, 1941, on file in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 56356, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 1813 at page 310, said trust mortgage having been amended by instruments dated, numbered and recorded as follows:

Dated	Land Court Document No.	Recorded
July 23, 1942	64278	Liber 1717, pp. 121-148
"	64274	" 1717, pp. 149-168
"	64311	" 1717, pp. 238-240
"	64312	" 1717, pp. 241-246
"	64313	" 1717, pp. 247-251
"	64314	" 1717, pp. 252-256
July 10, 1944	74022	" 1832, pp. 284-307
Aug. 14, 1948	103744	" 2160, pp. 412-493
Jan. 7, 1957	197087	" 3207, pp. 311-315
Sept. 27, 1962	297144	" 4377, pp. 1-24

HAWAIIAN TELEPHONE COMPANY, a Hawaii corporation, mortgagor in said trust mortgage, and Grantee in the Trust to which this instrument is attached, does hereby grant, bargain, sell, convey, transfer, assign, mortgage, confirm, warrant, set over and deliver unto HAWAIIAN TRUST COMPANY, LIMITED, a Hawaii corporation having its principal office and place of business at 1010 Richards Street, Honolulu, State of Hawaii, the Trustee named in said trust mortgage, as such Trustee under said trust mortgage, as amended, and its successors in trust and assigns, all of its rights, title and interest in and to said Grantee to which this instrument is attached.

TO HAVE AND TO HOLD the same, together with all rights, easements, privileges and appurtenances thereto or to any part thereof belonging or appertaining, unto the said Trustee and its successors in trust and assigns;

IN TRUST, NEVERTHELESS, under the trusts and subject to the conditions and provisions, including the defeasance clause, set forth in the trust mortgage, as amended, and as the same may from time to time hereafter be amended.

IN WITNESS WHEREOF, said HAWAIIAN TELEPHONE COMPANY has caused these presents to be executed in its corporate name by its proper officers and its corporate seal to be hereunto affixed, all as Honolulu, City and County of Honolulu, State of Hawaii, the 26 day of October, 1964.

HAWAIIAN TELEPHONE COMPANY

By [Signature]
Its VICE PRESIDENT
By [Signature]
Its ASSISTANT SECRETARY

STATE OF HAWAII)
City and County of Honolulu) ss

On this 24 day of October, 1964, before me appeared [Signature] and James D. Lane to me personally known, who being by me duly sworn, did say that they are the Vice President and Assistant Secretary respectively of Hawaiian Telephone Company, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said [Signature] and James D. Lane acknowledged said instrument to be the free act and deed of said corporation.

[Signature]
Notary Public, First Judicial Circuit,
State of Hawaii.

My commission expires 6-15-67

KNOW ALL MEN BY THESE PRESENTS:

That in order to comply with Section 195-4, Revised Laws of Hawaii 1955, and to further secure and comply with the after-acquired property provisions of that certain Indenture of Mortgage and Deed of Trust dated March 1, 1948, to BISHOP TRUST COMPANY, LIMITED, a Hawaiian corporation, as Trustee, being recorded in the Hawaiian Registry of Conveyances in Book 2193, pages 227-306, as amended by First Supplemental Indenture dated as of April 1, 1953, recorded in said Registry in Book 2587, pages 354-375, and by Second Supplemental Indenture dated May 1, 1963, recorded in said Registry in Book 4514, at page 207, and Third Supplemental Indenture dated February 1, 1965, recorded in said Registry in Book 5255, pages 279-306, all to said Bishop Trust Company, Limited, as Trustee.

MAUI ELECTRIC COMPANY, LIMITED, a Hawaiian corporation, mortgagor in said trust mortgage, and grantee in the grant to which this instrument is attached, does hereby grant, bargain, sell, convey, transfer, assign, mortgage, confirm, warrant, set over and deliver unto Bishop Trust Company, Limited, a Hawaiian corporation having its principal office and place of business at 141 South King Street, Honolulu, State of Hawaii, the Trustee named in said trust mortgage, as such Trustee under said trust mortgage, as amended, and its successors in trust and assigns, all of its right, title and interest in and to said grant to which this instrument is attached.

TO HAVE AND TO HOLD the same, together with all rights, easements, privileges and appurtenances thereunto or to any part thereof belonging or appertaining, unto the said Trustee and its successors in trust and assigns;

IN TRUST, NEVERTHELESS, under the trusts and subject to the conditions and provisions, including the defeasance clause, set forth in the trust mortgage, as amended.

IN WITNESS WHEREOF, Maui Electric Company, Limited, has caused these presents to be duly executed this 3rd day of October, 1966.

MAUI ELECTRIC COMPANY, LIMITED

By R. R. Lyons
Its Executive Vice President

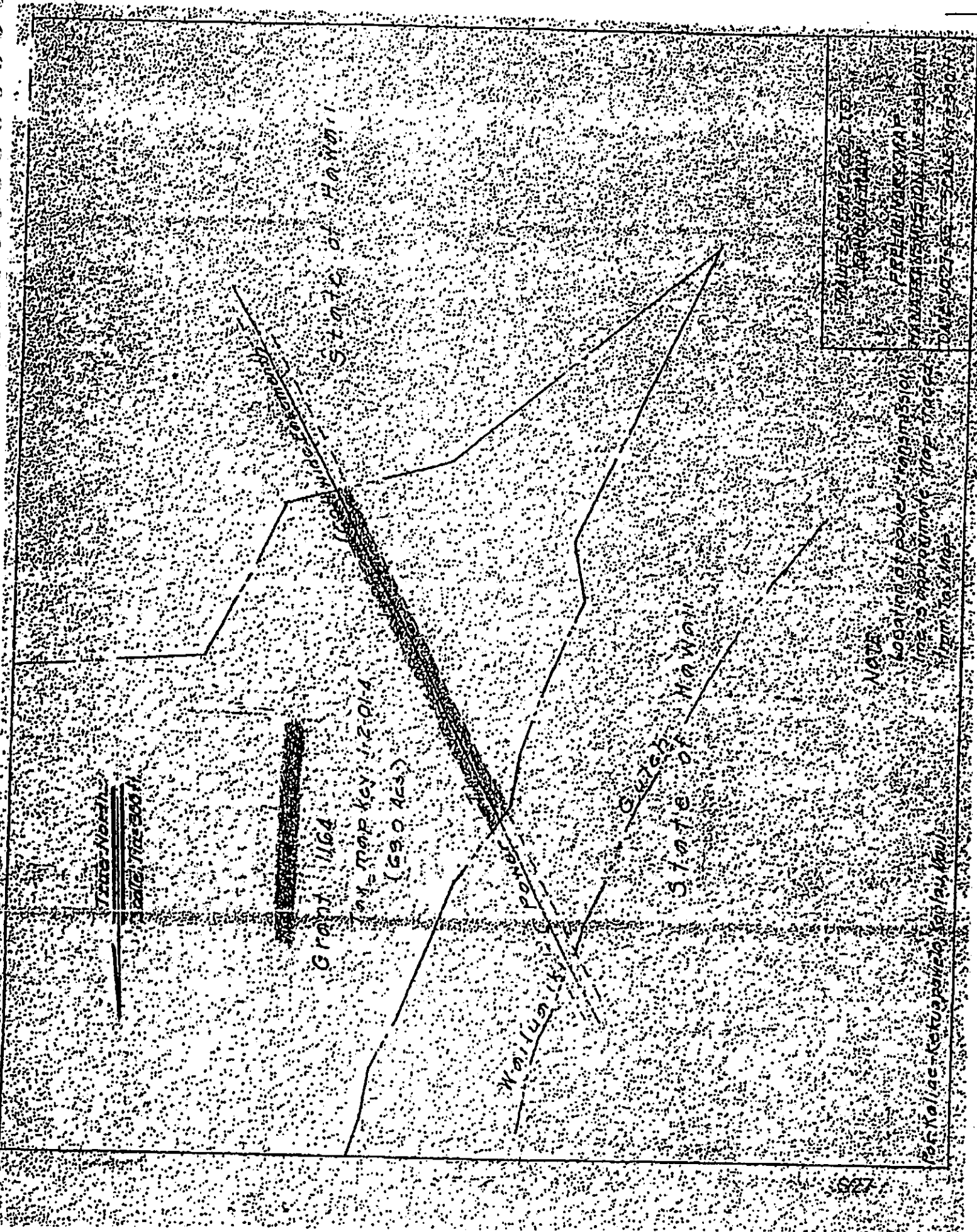
By C. C. Murdoch
Its Secretary-Treasurer

State of Hawaii)
County of Maui) ss.

On this 3rd day of October, 1966, before me appeared R. R. LYONS and C. C. MURDOCH to me personally known, who, being by me duly sworn, did say that they are the Executive Vice President and Secretary-Treasurer, respectively, of MAUI ELECTRIC COMPANY, LIMITED, a Hawaiian corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said R. R. LYONS and C. C. MURDOCH severally acknowledged said instrument to be the free act and deed of such corporation.

K. C. Palm
Notary Public, Second Judicial Circuit
State of Hawaii

My commission expires: 8-20-68

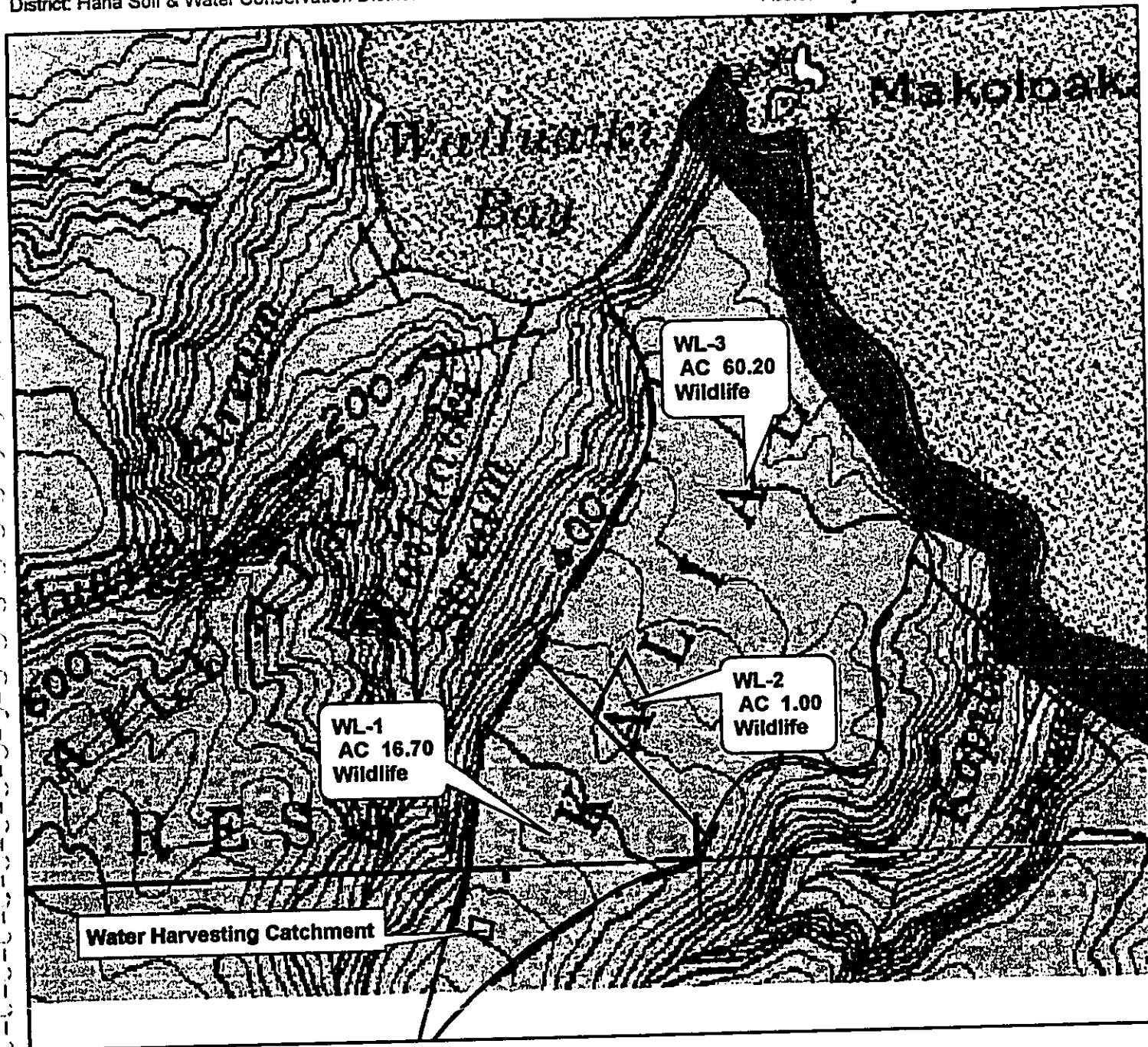


Conservation Plan Map

Date: 9/30/2005

Customer(s): DAVID P NIEHAUS
District: Hana Soil & Water Conservation District

Field Office: WAILUKU SERVICE CENTER
Agency: USDA
Assisted By: James J Ino



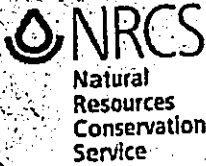
Legend

- Weaver_L&L——3165-Weaver
 - mau-indv-final-nad83-06jun2003
- Image: o20156f2.tif



340 0 340 680 1,020 1,360 Feet





WAILUKU SERVICE CENTER
210 IMI KALA ST STE 209
WAILUKU, HI 96793
(808)244-3100 ext. 107

Ranae Ganske-Cerizo
DC

Conservation Plan

DAVID P NIEHAUS
1630 PIIHOLO RD
MAKAWAO, HI 96768

Wildlife

Tract: 991

Conservation Cover

Perennial vegetation cover to be maintained on land.

Field	Planned Amount	Month	Year	Applied Amount	Date
WL-1	16.7 ac	11	2005		
WL-2	3 ac	11	2005		
WL-3	60.2 ac	11	2005		
Total:	79.9 ac				

Contour Orchard and Other Fruit Area

Plant native trees on the contour to allow cultural operations to follow the lands contour to reduce erosion and runoff.

Field	Planned Amount	Month	Year	Applied Amount	Date
WL-2	3 ac	11	2005		
Total:	3 ac				

Mulching

Apply a protective covering of residue around the base of the trees six inches thick to retain moisture, promote nutrients and minimize erosion.

Field	Planned Amount	Month	Year	Applied Amount	Date
WL-2	3 ac	11	2005		
Total:	3 ac				

Tree/Shrub Establishment

Planting will be implemented in ten feet circles. These plantings will contain upper story trees (ie) Koa and Ohia and lower story trees and shrubs (ie) Iama, kawila etc.

Field	Planned Amount	Month	Year	Applied Amount	Date
WL-2	3 ac	11	2005		
Total:	3 ac				

9/30/2005

Water Harvesting Catchment

Install a facility to collect and store precipitation.

Field	Planned Amount	Month	Year	Applied Amount	Date
WL-1	1 no	11	2005		
Total:	1 no				

CERTIFICATION OF PARTICIPANTS

David P Niehaus *Sept 30, 05*
DAVID P NIEHAUS Date

CERTIFICATION OF:

DC *Hanae Garske Cerizo* *9/29/05*
Hanae Garske Cerizo Date

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ACORD CERTIFICATE OF LIABILITY INSURANCE

UP ID FAX
MATHI-2

09/29/05

PRODUCER

Finance Insurance, Ltd. - Maui
100 Hooehana St., Suite 201
Honolulu HI 96732
Phone: 808-244-3552 Fax: 808-244-3472

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION
ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE
HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR
ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

RED

Debra Mathias, David Niehaus &
Neil Strummingher
1630 Pihiolo Road
Makawao HI 96768

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: Nautilus Insurance Company

INSURER B: **IN LIEU OF CERTIFICATE

INSURER C: ISSUED 09/22/05***

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR ANY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

ADDL INSUR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
X	GENERAL LIABILITY	NC474373	09/16/05	09/16/06	EACH OCCURRENCE	\$ 1000000
	X COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100000
					CLAIMS MADE X OCCUR	MED EXP (Any one person)
					PERSONAL & ADV INJURY	\$ 1000000
					GENERAL AGGREGATE	\$ 2000000
					PRODUCTS-COMP/OP AGG	\$ included
					GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PROJECT LOC	
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident)	\$
	ANY AUTO	This insurance contract is issued by an insurer which is not licensed by the State of Hawaii and is not subject to its regulation or examination. If the insurer is found insolvent, claims under this contract are not covered by any guaranty fund of the State of Hawaii			BODILY INJURY (Per person)	\$
	ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
	HIRED AUTOS					
	NON-OWNED AUTOS					
	GARAGE LIABILITY	TRIAD INSURANCE AGENCY, INC. (Surplus Line Broker; License #107876)			AUTO ONLY - EA ACCIDENT	\$
	ANY AUTO	420 Waiakamilo Rd., Suite 205, Honolulu, HI 96817			OTHER THAN AUTO ONLY: EA ACC	\$
					AGG	\$
	EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE	\$
	OCCUR CLAIMS MADE				AGGREGATE	\$
	DEDUCTIBLE					\$
	RETENTION					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATUTORY LIMITS	OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	\$
	If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$
	OTHER				E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
Location: Grant of Easement LOD S-28147 at Tax Map Key (2) 1-2-001:por 003

State of Hawaii, DLNR is named as an additional insured, but only to the extent set forth in the policy provisions.

CERTIFICATE HOLDER

ZZZZZZZ

State of Hawaii, DLNR
Land Division
54 S. High St., Room 101
Wailuku HI 96793

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



ACORD 25 (2001/08)

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S31



R-111 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
MAY 31, 2005 08:01 AM
Doc No(s) 2005-106704



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES
CONVEYANCE TAX: \$1900.00

20 1/1 23

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail () Pickup () To:

MR DAVID NIEHAUS ET AL
1630 PIIHOLO RD
MAKAWAO, HI 96768

TG: 2005188205
TGE: A5-205-0118
Mary Jo Cabral



Tax Key: (2) 1-2-001-004

Total No. of Pages: 7

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That GENE LEROY WEAVER and LAJON DUMAS WEAVER, husband and wife, whose address is P. O. Box 801, Haiku, Maui, Hawaii 96708, hereinafter called the "Grantor," in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Grantor paid by DAVID PAUL NIEHAUS and DEBORAH L. MATHIAS, husband and wife, whose address is 1630 Piiholo Road, Makawao, Maui, Hawaii 96768, and NEIL R. STRUMINGHER, single, whose address is 1050 Piiholo Rd., Makawao, Maui, Hawaii

96768, hereinafter called the "Grantee," the receipt whereof is hereby acknowledged, does hereby grant and convey unto the Grantee, as tenants in common (the said DAVID PAUL NIEHAUS and DEBORAH L. MATHIAS, husband and wife, holding an undivided fifty percent (50%) interest as tenants by the entirety with full rights of survivorship, and the said NEIL R. STRUMINGHER, single, holding an undivided fifty percent (50%) interest), the real property described in Exhibit "A" attached hereto and by this reference incorporated herein; subject, however, to all encumbrances noted on said Exhibit "A".

TO HAVE AND TO HOLD the same, together with any improvements thereon and the rights, easements, privileges, and appurtenances thereunto belonging or appertaining unto the Grantee, the heirs, representatives, administrators, successors and assigns of the Grantee, forever.

AND the Grantor covenants with the Grantee that the former is now seised in fee simple of the property granted; that the latter shall enjoy the same without any lawful disturbance; that the same is free from all encumbrances, except the liens and encumbrances hereinbefore mentioned, and except also the liens and encumbrances created or permitted by the Grantee after the date hereof; and that the Grantor will WARRANT and DEFEND the Grantee against the lawful claims and demands of all persons

claiming the whole or any part of the above bargained and granted lands and premises.

The terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine or feminine, or neuter, the singular or plural number, individuals or corporations, and their and each of their respective successors, heirs, personal representatives, and permitted assigns, according to the context hereof. If these presents shall be signed by two or more Grantors or by two or more Grantees, all covenants of such parties shall for all purposes be joint and several.

The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the

counterparts may be discarded and the remaining pages assembled as one document.

IN WITNESS WHEREOF, the Grantor has executed these presents on this 19th day of May, 2005.

APPROVED AS TO FORM:
MANCINI, WELCH & GEIGER LLP

By Peter A. Horovitz

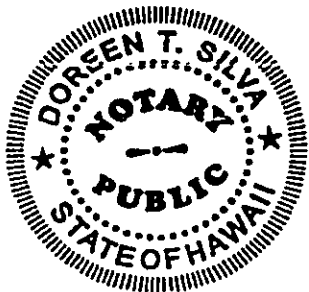
Gene Leroy Weaver
GENE LEROY WEAVER

Lajon Dumas Weaver
LAJON DUMAS WEAVER

Grantor

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

On this 19th day of May, 2005, before me personally appeared GENE LEROY WEAVER and LAJON DUMAS WEAVER, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Doreen T. Silva
Print Name: _____
Notary Public, State of Hawaii.

My commission expires: _____

DOREEN T. SILVA
Expiration Date: January 2, 2009

EXHIBIT "A"

All of that certain parcel of land (being all of the land(s) described in and covered by Royal Patent Grant Number 1164 to Stephen Grant) situate, lying and being at Kaliae, Koolau, Island and County of Maui, State of Hawaii, and thus bounded and described:

Commencing at makai N.E. corner of this on top of Pali by sea, and running along the boundary line of Kekuapaawela, as follows:

S.	18°	00'	W.	17.00 chains;
S.	78 1-2°		W.	6.06 chains;
S.	27°	00'	W.	2.73 chains;
S.	24°	00'	W.	4.40 chains;
S.	76°	00'	W.	3.40 chains;
S.	53°	00'	W.	6.12 chains;
S.	31°	00'	W.	4.00 chains;
S.	61 1-2°		W.	2.90 chains;
S.	37°	00'	W.	4.63 chains;
N.	5°	00'	E.	5.00 chains thence along down the boundary of Wailua;
N.	18 1-2°		E.	7.35 chains;
N.	1°		E.	5.00 chains;
N.	18°	00'	E.	8.38 chains;
N.	19°	00'	E.	11.00 chains;
N.	18°	00'	E.	3.00 chains;
N.	6°	00'	W.	6.40 chains;

N. 3 1-2° E. 6.10 chains;
N. 12° 00' E. 7.50 chains to the pali by sea,
thence along the sea coast to
the place of commencement and
containing an area of 63
acres, more or less.

Together with perpetual and non-exclusive access
easement rights, as granted in Grant of Non-Exclusive Easement
dated April 22, 1996, recorded in the Bureau of Conveyances of
the State of Hawaii as Document No. 96-054903, and subject to
the terms and conditions, including the failure to comply with
any covenants, conditions and reservations, contained therein;
said easement being more particularly described in Exhibit "A"
attached thereto.

Assignment of Easements dated July 5, 2000, recorded
in the said Bureau of Conveyances as Document No. 2002-080595;
re: assignment of rights in and to that certain non-exclusive
easement to the Grantor herein. Consent thereto given by the
State of Hawaii, by it's Board of Land and Natural Resources,
dated May 6, 2002, recorded as Document No. 2002-080596.

Being the premises acquired by the Grantor herein by
Warranty Deed of Michael J. Boteilho, unmarried, dated June 20,
2000, and recorded in the said Bureau of Conveyances as Document
No. 2000-087764.

SUBJECT, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of
all mineral and metallic mines.
2. Location of the seaward boundary in accordance
with the laws of the State of Hawaii and shoreline setback line
in accordance with County regulation and/or ordinance and the
effect, if any, upon the area of the land described herein.
3. Rights of Native Tenants as set forth in Royal
Patent Grant Number 1164.
4. Old road as indicated on tax map.
5. Grant to Maui Electric Company, Limited and GTE
Hawaiian Telephone Company Incorporated dated September 6, 1966,

and recorded in the said Bureau of Conveyances in Liber 5488 on Page 423, granting a perpetual right and easement to build, construct, reconstruct, rebuild, repair and maintain operate pole and wire lines and/or underground power lines, etc., for the transmission of electricity.

6. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.

7. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose.

Note: A current survey, with metes and bounds description, should be made of said premises.

8. Any unrecorded leases and matters arising from or affecting the same.

END OF EXHIBIT "A"

Tax Key: (2) 1-2-001-004

No. 1164.
ROYAL PATENT.

Kamehameha III., By the grace of God, King of the Hawaiian Islands,
by this his Royal Patent, makes known unto all men, that he has for himself and
his successors in office, this day granted and given, absolutely, in Fee Simple unto

Stephen Grant

for the consideration of *eighty three dollars*

paid unto the Royal Exchequer, all that certain piece of land, situated at *Wailua*
Koolau in the Island of *Maua*
and described as follows:

Commencing at *makai* the East-
corner of this on top of pali by sea, and running
along the boundary line of *Hekua-pa-an-la*, as
follows: *S. 18° W. 14.00 chains*; *S. 78 1/2° W. 6.56 chains*; *S. 27° W. 2.43 chains*; *S. 22° W. 4.43 chains*; *S. 46° W. 3.20 chains*; *S. 53° W. 6.12 chains*; *S. 31° W. 4.07 chains*; *S. 61 1/2° W. 3.90 chains*; *S. 37° W. 12.63 chains*; thence
N. 5° E. 5.00 chains; thence along down the bound-
ary of *Wailua*, *N. 18 1/2° E. 4.35 chains*; *N. 1° E. 5.00 chains*; *N. 18° E. 9.33 chains*; *N. 19° E. 11.00 chains*; *N. 18° E. 3.00 chains*; *N. 6° W. 6.40 chains*; *N. 3 1/2° E. 6.10 chains*; *N. 12° E. 4.50 chains* to the pali
by sea; thence along the sea coast to the
place of commencement.

Reserving the rights of Native tenants.

Cultural Assessment Study

This cultural Assessment Study followed the guidelines of the Office of Environmental Quality Control, which included interviews with individuals with knowledge of the area. The interviews were transcribed and returned to the participants for their review and comments. Each individual signed a release to make the information available for this study. Topics included personal association to the Ahupua'a, traditional trails, gathering areas, water sources, religious sites, knowledge of agricultural areas, stories and concerns about our plans to build a single-family residence and plant native Hawaiian trees. References have been included.

The island of Maui ranks second in size of the eight main islands in the Hawaiian archipelago.

Traditionally, the division of Maui lands into districts (moku) and sub-districts was performed by a Kahuna, during the time of the Ali'i. Land was considered the property of the king, or Ali'i, which he held in trust for the gods. The king kept the parcels he wanted, his higher chiefs received large parcels from him and in turn distributed smaller parcels to lesser chiefs. The maka 'ainana (commoners) worked the individual plots of land. A district (moku), contained smaller land divisions (ahupua'a) which customarily continued inland from the ocean and upland into the mountains. Extended household groups living within the ahupua'a were able to harvest from the land and the sea.

The Hawaiian economy was based on agricultural production, marine exploration, raising livestock, and collecting wild plants and birds. Extended households settled in ahupua'a. There were two types of agriculture: wet land and dry land, both of which were dependent on geography and topography. Kaliae is located between Hana and Nahiku. Hana was an area famous in legend and history supported chiefly by dry taro and sweet potatoes. "Wailua is a steep stream valley and raised wet taro." (Handy & Handy). KO (sugar cane), mai'a (bananas), uala (sweet potatoes) were produced. This was the typical agricultural patterns seen during traditional times on all Hawaiian islands. "Agricultural development was likely to have begun around AD1200 - 1400." (Kirch, 1985)

In the 1840s land tenure shifted drastically with the introduction of private land ownership based on western law. Kamehameha III was forced to establish laws changing the traditional Hawaiian economy to that of a market economy. The Great Mahele of 1848 divided Hawaiian lands between the king, the chiefs, the government, and private ownership. The subsequently awarded parcels were called Land Commission Awards. Once lands were made available and private ownership was instituted, the maka'ainana (commoners) were able to claim the plots on which they had been cultivating and living. The claimants were issued a royal patent, after which they could take possession of the property. In 1853, the Kaliae property in Hana was deeded by Royal Patent #1164 to

Stephen Grant for \$63 by King Kamehameha III (see S39). The 63 acres of Kaliae was used for agriculture and cattle grazing long before statehood or the Conservation Department existed. Walter Boteilho purchased Kaliae from Alfred Alu in the 1950s. Mr. Alu was an older rancher and had been raising cattle on the property for many years prior to the sale to Mr. Boteilho. Ranching practices of grading and grubbing occurred because of the ruggedness of the land, invasive species overgrowth, and to plant grass for the cattle. Agriculture and ranching were a way of life for many Hawaiians, Chinese, Portuguese, and Caucasians.

The scenic Hana Highway was built in 1925 and includes many historic bridges that wind through the Ko'olau forest to Hana where it becomes the Pi'ilani Highway in Kipahulu. The ancient Pi'ilani trail, or King's Highway, is still intact throughout much of the region. This trail was built by Kihapi'ilani. It extended along this coast connecting all major communities. This highway crossed over Kaliae. Prior to 1925, this trail was the route that connect Hana to the rest of the island. Although there is no specific mention of Kaliae in the references that have been noted below, the Pi'ilani trail through Kaliae was the link between the two culturally rich areas of Hana and Keanae. There are at least 104 Heiau recorded in the Hana region. There is no known mention of any Heiau at Kaliae. Kaliae provided access to the coastline for fishing, swimming, and gathering via the King's trail. This trail is presently overgrown and impassable. For the past 100 years, the King's trail at Kaliae was used by the livestock raised by Alfred Alu and later Walter Boteilho for accessing water from both the Wailuaiki and Kapiliula streams.

Summary

Our goals for Kaliae are in accordance with the Hana Community Plan (1994).

Environmental and Cultural Goals

Our plan is to restore Kaliae using organic farming and environmental protective practices. We will maintain feral animal control programs and attempt to control invasive plant species. We have identified the King's trail on the Kaliae property (see map M7). This trail is of great cultural significance. We acknowledge and respect the Hana community's right to access the King's trail for fishing, gathering, hiking, and swimming. We will not build near this historical trail. We will work with the State of Hawaii to maintain the King's highway. We feel that we can make a positive cultural impact to the Hana community by being conscientious custodians of Kaliae.

Project: Kaliae

Interview with Michael Boteilho (MB) and David Niehaus (DN)

Place: Kula, Maui

Date: November 2, 2005

DN: Mr. Boteilho thank you very much for talking with me about Kaliae – the 63 acres you once owned. Where and when were you born?

MB: I was born in Kula, Maui in 1951, and I still reside here.

DN: Mr. Boteilho, can you tell us what you know and remember about Kaliae?

MB: My Dad, Walter Boteilho, purchased the 63 acres known as Kaliae in 1959 from an old man named Alfred Alu. Mr. Alu was a Keanae resident who used the property for cattle grazing. When my father first purchased the property, we could only access it by walking or horseback. There were no motor vehicles able to drive to the property from the Hana Highway. My father and I also used the property for cattle grazing. My father had two other pieces of property he used for the same purpose. There was a 120acre piece in Nahiku and another 55 acre piece in Hana.

DN: What was the purpose of the cattle raising?

MB: It was one of the main supports for our family. We sold the meat to local markets and occasionally donated a cow to the Hana Church.

DN: When and how did you get the road cleared from the Hana Highway to the property entrance?

MB: In 1963, the State of Hawaii cleared and grubbed the forest between the Hana Highway and the property entrance. They planted basically three types of eucalyptus to replace the guavas and Christmas berries. During this time, we hired the same bulldozer to clear the road down to the present front gate.

DN: Do you know of any archaeological ruins on the property?

MB: No. None at all.

DN: To your knowledge, was the property ever used for gathering areas or religious sites?

MB: The property was never used during our time of ownership or anytime that I know of for any such things. As I said before, we had to go from horseback from the Hana Road and the Hana Road wasn't built until 1925.

DN: How did you water your cattle?

MB: We drove the cattle down the two trails... one on the left to the Wailuaiki stream and the one on the right side of the property to the Kopiliula stream. The cattle drank directly from the streams. We had no water pipes or lines.

DN: Was the 63 acres ever bulldozed prior to 1963?

MB: No, I don't think Mr. Alu ever ran a bulldozer on the property. My dad and I did. We bulldozed some roads to get in and plant the grasses, etc.

DN: Did you own the property when Mr. Weaver bought it in 2002?

MB: I sold a portion of the property to Mr. Fred Levy in 1992. The next year he proceeded to clear the property to the extent that, beside the old Mango trees, there was not a blade of grass left on the 63 acres. You should understand that grubbing and clearing of the property was an ongoing practice to operate a ranch. This was to clear the guava, lantana, and inkberries in order to permit grazing by the livestock.

DN: Have you ever seen anyone on the 63 acres besides your crew?

MB: The only people I have ever seen on the property were pot growers, who, I think, came up the trail from the Keanae side.

DN: Do you know what the property was used for prior to ranching?

MB: I saw no signs of anything but cattle ranching.

DN: Mr. Boteilho, thank you very much for your time and this extremely valuable information. You must know more of Kaliae's recent history than anyone else.

I participated in an interview with David Niehaus on November 2, 2005 in Kula, Maui. I understand this information I have provided to Mr. Niehaus shall be submitted as part of a Cultural Impact Assessment Report for a development project in Kaliae, Maui (TMK: 1-2-001-04). I have read the transcript from the interview and the information is true and accurate to the best of my knowledge.

Michael Boteilho Date: 11/17/05
Michael Boteilho

Purpose: Cultural Impact Study for Kaliae
Participants: Deborah Mathias (DM) and Mrs. Helen Nakanelua (HN)
Date: 25 November, 2005

Mrs. Nakanelua was advised that we were planning to build a home and to plant native Hawaiian trees at Kaliae. She was also advised that we were interested in any history and information on Kaliae and Keanae and Wailua area. Mrs. Nakanelua was informed that we would request her signature on a transcript of the interview.

Mrs. Nakanelua had made it clear to us prior to the interview that she was limited in time because she was preparing for the fumigators and had much work to do...

Mrs. Nakanelua's home is directly below St. Gabriel's Catholic Church in Wailua. It is located on two acres of property. Her yard is full of ti leaves, orchids, fruit trees, and palms.

Mrs. Nakanelua invited us into her living room for the interview with much Aloha. Her living room was full of photos, from floor to ceiling, of her children, grandchildren and extended family.

Mrs. Nakanelua talked with immense enthusiasm. She used her hands, and at times even her feet, to express herself. She spoke perfect English and was extremely articulate. Her eyes twinkled the whole time we visited with her.

DM: Mrs. Nakanelua can you tell us about yourself?

HN: I was born in 1911 in Honolulu. My father was Chinese, my mother was from Keanae, Hawaiian Chinese. My father was a cook on a boat. I didn't like my father. He only came home to make my mother pregnant. He did not value girls. The Chinese men, they don't value girls. I was sent to live with my grandparents on Maui, at Keanae when I was very young. My grandmother was pure Hawaiian. My grandfather got 11 acres at the time of the Great Mahele through a Royal Patent. He gave two of his daughters this land, but one daughter died with no heirs so that land went back to my grandmother and grandfather. I grew up on the 11 acres. Later, the state needed some of the land for the Hana Highway, so they paid us for it, and we had 8 acres left. My grandparents raised me.

DM: Where did you go to school?

MN: I didn't start school until was eight years old. I started at Keanae School. Mrs. Ching was my teacher. When I was nine or ten, I was sent Moanalua Seminary on Baldwin Avenue. I boarded there.

DM: How did you get to school?

HN: We went by horseback.. Patsy Mink's parents, the Tokanagas, had a taxi. We would go by horse and then they would pick us up in the taxi and take us to school. I didn't like it at Moanalua Seminary. I told my grandmother that if I had to go back there, I would run away. So I came back to Keanae after only one year. In 1923, I went to Honolulu for school. I graduated from Kalihi Waena's eighth grade in 1927. The doctor found a spot on my lung, and I had to take a semester off school. I graduated in 1932 from McKinley High School. I wanted to continue school, but my grandfather was going to China, so I came back to Keanae to care for my grandmother. I had gotten married in 1932. I was only to come to Keanae for six months, while my grandfather was in China. My husband, who was pure Hawaiian, was working for Territorial Surveyors Department, at the time. Hawaii was still a territory. One day, about two months after returning to Maui, my grandmother told me in Hawaiian that my husband had come home to Keanae. I was mad that my husband had quit his job in Honolulu. I told him that he had to find a job, but there were no jobs in 1932 in Keanae. Then the government started FERA - men could get five days work a month.. In 1935, WPA came in, and that gave my husband ten days of work a month and gradually up to 15 days a month. Sometime after, my husband got a job with the county, and he became a foreman in charge of road maintenance for the Keanae and Wailua areas.

DM: What did your grandparents who raised you do for work?

HN: My grandparents were very hard workers. My grandfather would say, "You no hana hana, you no kau kau." My grandparents raised taro. My grandmother had land, so they grew taro.

DM: What kind of taro?

HN: We grew wet-land taro. Wet-land taro is easier to care for than dry-land taro. Dry-land taro has to be weeded all the time....it is very hard to care for..

DM: Did you sell the taro?

HN: When I was very young, taro was raised for the Hawaiians only. We would exchange taro with the mountain people for pig and opae and o'opu.

DM: What are o'opu?

HN: They are small talapia-like fish.

DM: So you never sold the taro?

HN: The poi shops came later. When the poi shops came, we sold our taro. We only got \$1.50 for 100 pounds. It was very hard work to raise 100 pounds of taro. We sold our poi to Honolulu Poi Shop through an agent. His name was Joseph Young.

DM: Do you still eat poi?

HN: I have to have poi. If I don't have poi, I don't feel right. Sometimes now, when I don't have poi, I buy instant mashed potatoes and put brown gravy on it.. I eat mashed potatoes, but my staple is poi. If I eat rice, I have to take it with soup...it gives me heartburn. I cannot live without poi. Now poi costs \$16 for four pounds. O'oka's has the cheapest.

DM: Did your family fish or get food in other ways?

HN: We would go to the beach and rivers and get opihi and opae. We got fish from friends. We would help them with their nets, and they would give us fish. My father would sell things at our house, like dried fish, Hawaiian salt, and squid. He would put up a white flag to let people know he had things for sale. I was the sales girl.

DM: Did you make the poi?

HN: It is hard to make poi. Before we had electricity, we would clean and cook the taro and pound it. We put it in a crock. Our crock pot held ten pounds. Poi is my staple.. I like to eat it every day.

DM: How did you get around back then? And when did the Hana Highway come here?

HN: We went by horseback or foot. There was a trail to Hana. It started above the Keanae School. It was flat up there then. There weren't the trees.

DM: How long did it take to get to Hana?

HN: I think it took two or three hours on horseback.

DM: When did the Hana Highway come in?

HN: The highway was built by prisoners in the early 1920s. There was a prison camp where the YMCA is now. I was afraid of the prisoners. The prisoners built much of the Hana Highway.

DM: What religion are you?

HN: I am Catholic. I go to Sain Gabriel's Church. The small St. Gabriel's Church was built in 1860. It was made from coral from the beach. They used o'hia wood instead of nails. They used them as pegs, ohia pegs. In 1936, the church was too small for the community. (The community was much bigger then, 1000 people) So they built a bigger church. There used to be a thousand people living here. Now there are only 200 and we use the smaller church again. The church in Keanae is protestant. Some times the protestants and Catholics disagree out here.

DM: Is there a priest that lives out here?

HN: There used to be. But later, the priest came from St. Rita's in Haiku. We went to church every Sunday.

DM: What language did you speak when you were young.?

HN: My grandmother spoke Hawaiian. Granpa spoke pidgeon. I learned English at school. When I was older, I studied Mandarin and tried it on my grandpa but he never understood the dialect. I speak Hawaiian and English now. I can speak pidgeon if I want, but I don't think you would understand me.

DM: Are there different Hawaiian dialects?

HN: If I go to other islands, I can understand the Hawaiians but they need to talk slowly.

DM: How many children did you have?

HN: I had six children. I struggled. I worked in the taro fields. I said these six children are not going to be dumb. I woke up every day at 4am and went to work in the taro patch at 6am. I put my younger children on my back while I worked. Later, my oldest daughter would watch the children on the side of the taro patch. I told myself that I had one purpose in life, and that was to raise my children and educate them. You know the Haoles didn't want us to speak Hawaiian or dance the hula or practice Hawaiian culture, but as the younger generation became educated, that is what helped revive the Hawaiian culture. When the children went to college, they studied Hawaiian history and learned what really happened to the Hawaiians. My husband was not strict with the children. He was easy going.. My children say it was good that I was so strict.

DM: How did you get your home?

HN: This land was Hawaiian homelands. But now the land is fee simple.. We have two acres. We got this property in the 1930s and built our house then.

DM: Do the Hawaiians worry about the Haoles coming here?

HN: Yes. We do not want Haoles controlling us. We stick together and my land will be passed to my Hawaiian offspring.

DM: Are most people Hawaiian out here?

HN: They are mostly Hawaiian or Hawaiian Chinese. The Chinese men came to work on the plantations. When their contracts were up, they married Hawaiian women. The Hawaiian women had the land for taro after the Great Mahele.

DM: Do you know anything about Kaliae? The property between here and Nahiku?

HN: I never went to Kaliae.

DM: Did you go on the King's Highway to the beaches or streams on either side of Kaliae?

HN: When I was younger ... probably not for 50 years. We would go to the beaches and streams and get opae.

DM: Did you know a Mr. Alu?

HN: Mr. Alu lived in the big house below my house. He died about twenty years ago. His wife died four years ago. He raised cattle out there in Kaliae. He also had a poi shop he leased from Mr. Anthony Tam. He made poi and delivered the poi to areas on Maui.

DM: Did he live out in Kaliae?

HN: No. He lived just below my house.

DM: When did he start raising cattle out there?

HN: In the 1920s I think.

DM: Was taro ever raised at Kaliae?

HN: I don't think so.

DM: Was there cattle out there before Mr. Alu?

HN: I don't know.

DM: Do you know any Hawaiian stories about Kaliae or Keanae?

HN: My grandmother would tell us stories, but she always would say paha, which meant maybe. I don't tell these stories because they are "maybe so"

DM: Do you feel any Hawaiian spirits out here?

HN: I don't think about spirits. If you think about spirits, they come all the time.

DM: Is there more aloha here now or before?

HN: There was more aloha before. It is not like before.

DM: Do you know of any heiaus out here?

HN: There is one at Keanae school. I first saw it only two years ago.. I went with my grandson. My grandson is the fire captain at the airport. I am going to give my share of the eight acre property to him.

DM: What were the fun times out here/?

HN: The fun times were the lu'aus. They were put on for special occasions. I never drank or smoked at them.

DM: What do you do with most of your days now?

HN: I get up at 4am. I work in the yard all day. Even if it is raining, I am working. I read the whole Star Bulletin. My husband died at age 87 years. I have been a widow for fourteen years. Sometimes I wake up at night and I'm talking to him saying "daddy, I am in so much pain" and then I remember he is dead. Most of my friends are dead. People think I am crazy because I work so hard. I take the MEO bus to town once a week to shop and go to the doctor. I am 94 years old. I want to live alone now. Nobody lives with me. Nobody tells me what to do. I have arthritis and osteoporosis and my ankles swell... but I still do what I can. The Chinese are hard workers. My grandparents taught me to work hard. I still work every day. I just do what I can.

DM: Do you think that we will be accepted by the community if we live out here.

HN: If you are friendly and respect us and our ways, we will accept you.

I participated in an interview with Deborah Mathias on November 25, 2005 in Wailua, Maui. I understand this information I have provided to Dr. Mathias shall be submitted as part of a Cultural Impact Assessment Report for a development project in Kaliae, Maui (TMK: 1-2-001-04). I have read the transcript from the interview and the information is true and accurate to the best of my knowledge.

Helen A. Nakanelua Date: 12-9-05

Helen Nakanelua

Deborah Mathias MD Date: 11-29-05

Deborah Mathias

Project: Kaliae

Interview with Harlow Todaro

Location: Nahiku, Maui – Mr. Todaro's home, 1525 Nahiku road

Present: Harlow Todaro (HT) & David Niehaus (DN)

Date: October 31, 2005

DN: Thank you for speaking with me Mr. Todaro. Since your rooftop here in Nahiku is the only structure visible from the 63 acres in Kaliae, I feel honored to "pick your brain" about the Kaliae property. Mr. Todaro, where and when were you born?

HT: I was born in Philadelphia on April 4th, 1944.

DN: When did you move to Hawaii?

HT: I moved to Maui in early 1970 .. yes 1970. In 1971, I moved to Nahiku, Maui and took a job for a few years as the cafeteria manager at the Hana school. I have worked construction on Maui for the past 25 years and have lived in Nahiku since 1971.

DN: Did you live in this house in 1971?

HT: No! no, no I bought this property in 1976.

DN: Did you raise your family here?

HT: Yes, I brought my kids up right here, under this roof. I have lived in this house for some 28 years now.

DN: How far are we from Kaliae?

HT: My guess is that Kaliae is some mile or two along the coast here.

DN: Have you ever been to Kaliae?

HT: Yes. I've walked all over these parts, and more than once found myself on that beautiful ridge.

DN: What is your impression of the place .. this Kaliae?

HT: It's difficult not to love it, the views are beautiful and so private.

DN: What do you know of the history?

HT: Since I've lived here in Nahiku, there's been two or three owners of Kaliae. Back in the early 70s it was a cattle ranch and most of the ridge was bulldozed for pasture land.

DN: Have you known of any archaeological remains there on the property?

HT: The story I've always heard is, that there was, of course, the King's Highway, ... but that it was bulldozed off the ridge completely back in the late 1960s. Even the native trees are gone ... not much of anything left, just the pasture grasses, guava and inkberry.

DN: Do you know any stories of Kaliae?

HT: I did hear that King Kamehameha, on his first try at conquering Maui landed his war canoes on Wailuaiki beach, marched to Hana, but was defeated. He retreated to Wailuaiki, boarded his canoes, and returned to the Big Island.

DN: Considering you are the closest neighbor to the Kaliae property, I must ask you, do you object to my wife and I building a single-family home, an agricultural shed, and the planting of 3 acres of native Hawaiian trees?

HT: Quite to the contrary, you would be a perfect neighbor in that you are interested in reforestation and are planning only a single-family house and agricultural shed.

DN: What do you think is the region's most important cultural asset?

HT: It's the people. Unequivocally, it's the people. Their honesty, compassion, and respect for one another makes this the greatest place to live.. And of course, the weather doesn't hurt either.

DN: Mr. Todaro, I would like to thank you very much for this interview. You have been most helpful.

I participated in an interview with David Niehaus on October 31, 2005 in Nahiku, Maui. I understand this information I have provided to Mr. Niehaus shall be submitted as part of a Cultural Impact Assessment Report for a development project in Kaliae, Maui (TMK: 1-2-001-04). I have read the transcript from the interview and the information is true and accurate to the best of my knowledge.


Harlow Todaro Date:

Purpose: Cultural Impact Study for Kaliae
Participants: Froyam Edel (FE) and Bruce Stoner (BS)
Date: 12 November, 2005

FE: Ok. I'm sitting here with Bruce Stoner on the 12th of November.. early Sunday morning... and good morning Bruce.

BS: Good morning.

FE: Bruce I have a few simple questions that my clients, David Niehaus, Deborah Mathias, and Neil Struminger have asked me to discuss with you for a cultural impact study related to Kaliae, a nearby 63 acre property, that they recently purchased. They are proposing to build one single-family dwelling on the property and will be including this information with their CDUA. So they've asked me to ask you some questions ... ok?

BS: Ok.

FE: Where do you currently reside and for how long have you lived in the Hana community?

BS: I have lived in Nahiku since 1970. I guess that makes it about 35 years. I live about halfway down Nahiku road, that's 1mi. from the highway and about 1mi. from the bottom.

FE: What are your recollections of the property at Kaliae, the 63 acre parcel, located below the highway around the 22 mi. marker?

BS: I've seen it on the tax map. I always thought it was a great piece of property. That's about it.

FE: What, if any, significance to the community has Kaliae historically held?

BS: None that I know of...but I wouldn't know. Currently there is just nobody there...it's just jungle. It used to be in cattle as I understand it, but I don't know if it has cattle now?

FE: What cultural or historical significance does Kaliae have?

BS: I have absolutely no idea. None that I know of.


FE: Do you or members of the community access the property at Kaliae? If so, for what purpose?

BS: I don't personally. If anybody else does, it might be to hunt ferrel pigs...I just don't know.

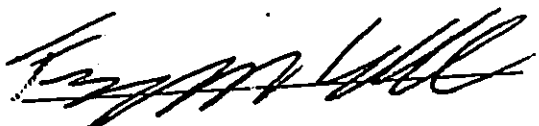
FE: David, Deborah and Neil are seeking permission to build a single family house, out of view from the coast and more than 2000 feet from the coastline, and also to reforest three acres with native Hawaiian plants and trees more than 1500 feet from the shoreline. Do you foresee any impact to the community from this project? If so, what impact?

BS: The only impact I can see would be paranoia from some elements of the community because everyone fears subdivision... but if they carry out the plans as stated, there should be no impact at all.

FE: That's it, we're done. And they couldn't subdivide because it's in the conservation zone. Thanks again for your time, Bruce.

 Date: 11/19/05

Bruce Stoner

 Date: 11/19/05

Froyam Edel

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(DRAFT)

**ARCHAEOLOGICAL ASSESSMENT OF
TWO PROPOSED USE AREAS WITHIN TMK 1-2-01: 04,
KALIAE, HANA (KO'OLAU) DISTRICT, MAUI**

Prepared for

**Mr. David Niehaus
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November 2005

ABSTRACT

An archaeological survey was conducted August 24, 2005 for two proposed use areas within TMK 1-2-01: 04 comprising a total of c. 3.2 acres. Historic background research indicates that no Land Commission Awards are present within the property, which was a private Land Grant within the State of Hawai'i Ko'olau Forest Reserve. Recent land uses include extensive grubbing and grading that occurred in 1993. No evidence of historic properties was located during the survey, and no areas with potential for subsurface deposits were identified during subsurface testing. No further archaeological work is recommended at this time.

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1. Project Description

This report presents the findings of an archaeological assessment of two proposed use areas comprising approximately 3.2 acres, located within TMK parcel 1-2-01: 04, Kaliae, Maui (Figures 1 and 2). The survey was conducted at the request of the property owners' representative, Mr. David Niehaus and Dr. Debra Mathias, pursuant to the requirements for a Conservation District Use Application (CDUA). An archaeological inventory survey of the specified use areas was requested by the State Historic Preservation Division (SHPD) as part of the Environmental Assessment (EA) submitted with permit application documents (personal communication, Dr. Melissa Kirkendall, Maui SHPD Archaeologist).

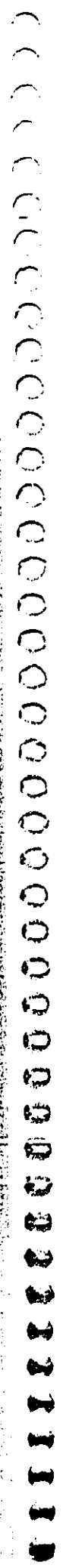
Fieldwork to satisfy the requirements of an inventory survey was conducted at the property August 24, 2005. No evidence of historic sites was identified, and subsurface testing indicated that subsurface deposits are not likely to be present within the areas surveyed. Therefore, pursuant to Hawaii Administrative Rule §13-284-5(A), an archaeological assessment report has been prepared in lieu of an inventory survey report.

The proposed use areas examined include a c. 3.0-acre native plant nursery and a c. 3,500 square foot dwelling construction site. A 200 foot section of existing roadway that is proposed for improvement was also examined.

2. Scope of Work

The scope of work for this project is based on requirements for archaeological inventory surveys as stipulated in the 2002 Draft Hawaii Administrative Rule (HAR) Chapter 13, Subchapter 13. The following tasks were completed:

1. Conduct systematic pedestrian survey of the project area to identify potentially significant historic properties, in conformance with HAR §13-276-4.
2. Photograph, map and describe all identified sites, and if appropriate, conduct subsurface testing to determine age and function of identified features, and their potential for containing intact cultural deposits (no sites were identified).
3. Prepare a report in conformance with HAR §13-13-276-5, sections (a) and (c), as stipulated in §13-286-5 (A), which states that "Results of the survey shall be reported either through a archaeological assessment, if no sites were found, or an archaeological inventory survey report which meets the minimum standards set forth in chapter 13-276. An archaeological assessment shall include the information on the property and the survey methodology as set forth in sections 13-276 (5) (a) and (c)". This information includes identification of the survey area, owners of the parcel, description of the environment, and description of field methods used to locate historic properties.
4. Background research on previous archaeological work in the project area and *ahupua'a*, prehistoric and early historic land use, and Land Commission Awards in the project area are not required for archaeological assessment reports. This information is, however, relevant to the negative survey findings, and is included to the extent that is deemed appropriate.

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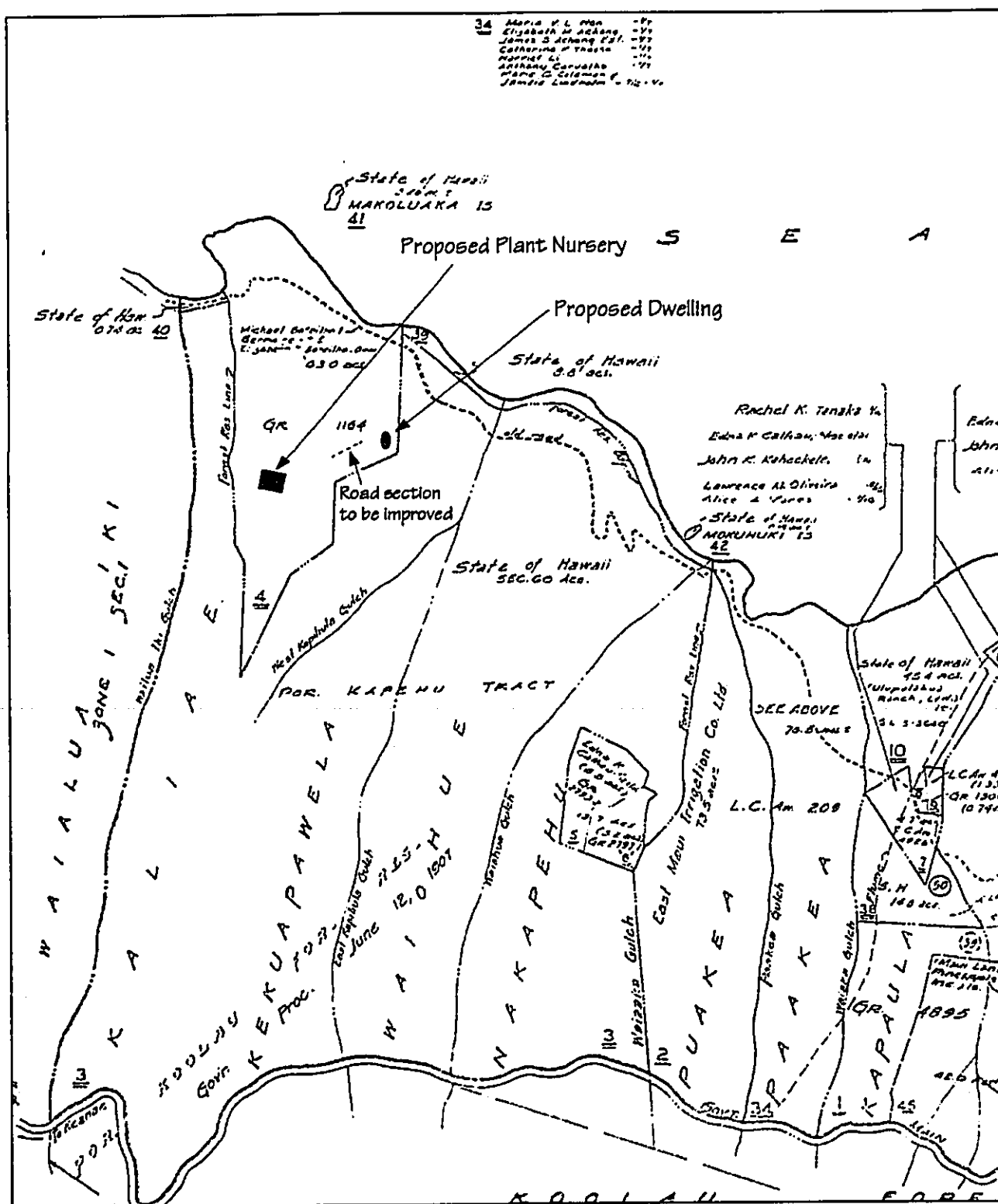


Figure 2. A portion of Tax Plat 1-2-01 showing location of proposed use areas

3. Local Environment

The proposed use areas are situated on a gently sloping upland ridge formation between East Wailuaiki Stream and Kopiliula Stream. The proposed plant nursery is a relatively flat area at an approximate elevation of 500 feet AMSL, and the proposed dwelling site is situated along the crest and north-facing slope of a narrow ridge, at an approximate elevation of 400 ft AMSL. The dwelling site overlooks vertical cliffs and a waterfall along Kopiliula Stream.

Soil in the area is Kailua silty clay, which occurs on upland slopes ranging from 3 to 25% (Foote et al. 1972:122). This soil is used primarily for wildlife habitat, woodlands and pasture. It consists of a surface layer of silty clay roughly 9 inches thick over dark brown to dark reddish brown silty clay subsoil (Foote et al. 1972:53). The underlying bedrock is relatively soft and weathered Kula volcanic series igneous bedrock. Papiha Point and the coastal area of Kaliae represent the southernmost extent of the Pleistocene era Kula flows along the north coast of East Maui. Exposed outcrops of the older Honomanu series flows are found in the steep banks of the stream gulches along the coast (Macdonald et al. 1986:383). More recent Hana flows are found to the east, beginning at or near Waiehu Bay.

Rainfall in coastal Kaliae averages 150 inches per year, with the highest monthly averages in January through March (Armstrong 1983: 63). Current vegetation in and around the project areas include various non-native grasses, lantana, *aweoweo*, inkberry, Christmasberry, and secondary growth guava. Areas closer to the ocean include small groves of mature mango and scattered *kukui* trees. Predominant vegetation in the proposed plant nursery area is thick non-native grasses and inkberry (Figure 3); the dwelling site is predominantly lantana with sparse grasses (Figure 4).

Both proposed use areas are within portions of the overall property that were grubbed and partially graded in 1993 by the previous owner. The current proposed dwelling site was inspected by the author at that time and was found to be in a graded state, with the access road newly graded (Agnes Griffin Memorandum to Roger Evans, October 28, 1993; Appendix).



Figure 3. Proposed plant nursery area, looking uphill (south) toward the power line easement.

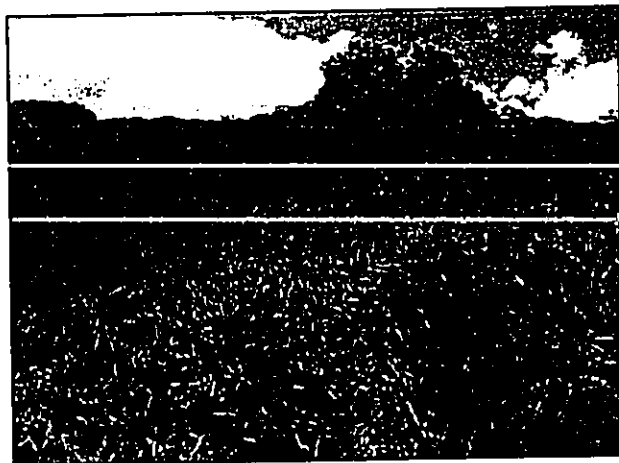


Figure 4. Proposed dwelling site, ridge crest area; remainder of site is along slope, to left side of photo. View to north.

4. Previous Archaeological Work

Project Area

There are no records of archaeological surveys within the project areas or the overall property prior to this study. Two inspections were conducted of the property by the author, as staff archaeologist for SHPD. The first inspection occurred July 20, 1993, in response to reports from area residents that grubbing and vegetation burning was occurring within the Conservation District. Both of the current proposed use areas were within the area examined during the 1993 inspection. As indicated in the Memo to Roger Evans (Appendix), "Extensive tree grubbing and some grading" occurred over most of the property prior to the inspection. No evidence of intact historic properties were identified during the inspection. The entire property was not examined during the inspection, and it was determined that historic properties could be intact at the seaward end of the property, outside the current use areas.

A second inspection of the property occurred February 9, 1995, in response to a request for an access easement corridor subdivision. The easement corridor ran from Hana Highway north through State Forest Reserve land, to the southern end of TMK parcel 04. The inspection found that the road had already been constructed, and that no evidence of disturbed or intact historic properties were found along its route (Don Hibbard letter to Glen Ueno, February 15, 1995 (Appendix).

Historic site location data available from the SHPD indicates that there are no recorded pre-contact Hawaiian sites within or near the project areas. The nearest known historic era site is the old Government Road, which passes through the *makai* portion of the overall property (discussed below).

Project Vicinity

The Ke'anae-Wailuanui area to the west of Kaliae contains a number of traditional *heiau* sites, most of which were first recorded by Winslow Walker in 1929. Walker identified seven *heiau* sites in Ke'anae (Sites 82-88) and eight *heiau* sites in Wailuanui (Sites 90-97). He recorded no *heiau* in Kaliae, or in the area between Wailuanui and Nahiku, where three *heiau* (Sites 98-100) were recorded (Walker 1931). All of the *heiau* sites recorded by Walker in Ke'anae, Wailuanui and Nahiku were at or near the coast, well below the 1,000 ft elevation.

Subsequent surveys in the Ke'anae-Wailuanui area identified several *lo'i kalo* complexes, a few habitation sites, and various types of agricultural features (Group 70 International et al. 1995). Subsurface agricultural deposits were also discovered at Ke'anae Park during a construction project to improve the sewerage system at the park restroom (Fredericksen and Fredericksen 2004). Charcoal collected from this deposit was dated at AD 1410-1530 or AD 1560-1630 (Fredericksen and Fredericksen 2004:5).

Two archaeological inspections have been conducted in stream valleys to the east and west of Kaliae. An inspection of upper Wailuaiki Stream valley between c. 1200 and 2400 feet elevation failed to locate archaeological sites (Kennedy 1986). An inspection of portions of upper Makapipi and Kuhiwa Stream valleys at elevations of approximately 1200 to 1600 feet also failed to locate archaeological sites (Fredericksen and Fredericksen 1978). It was noted in the

report on the latter inspection that evidence of *lo'i kalo* was observed *makai* of the subject survey area, closer to the ocean. The specific location of these features was not documented in the 1978 report. More recently, an inspection was conducted by the author at Pua'a Ka'a State Wayside Park, in connection with monitoring plan preparation. No evidence of historic properties was found within the park area (Donham 2005).

5. Traditional and Early Historic Setting

Information regarding important traditional Hawaiian places or events is obtainable from oral histories and legends that were recorded by various scholars since the time of western contact. Oral histories for the Ko'olau District have been compiled in a recent cultural landscape study of Ke'anae and Wailuanui (Group 70 International et al. 1995). This information indicates that significant historic events occurred at Ke'anae and Wailuanui, which were also the areas of more concentrated populations. No specific references to Kaliae, or the adjacent places of Waiohue and Puakea could be located in the cultural landscape study or in primary sources for oral histories, such as Beckwith (1970), Fornander (1996) and Kamakau (1992).

The place name Kaliae is not listed in Pukui et al's. (1974) place name reference. The name is possibly a variant of *kalia*, which refers to a native tree that was used for house construction and cordage (Pukui and Elbert 1986:123).

The proposed use areas are within a private land grant (Grant 1164) that is located within the Ko'olau Forest Reserve, which was established by the Territorial Government June 18, 1907. The State-owned parcel surrounding Grant 1164 is referred to as the Kapehu Tract and consists of 550 acres between Hana Highway and the top of the ocean cliffs; it includes portions of Nakapehu, Waiohue, Kekuapawela, and Kaliae Ahupua'a; it is bounded on the west by Wailua Iki Gulch and on the east by Waia'aka Gulch. Three land grants were issued within this area of the forest reserve; one encompasses 63 acres at the shoreline in Kaliae (Grant 1164); the other two comprise a total of 13.7 acres and are located midway between Hana Highway and the coast in Nakapehu (Grants 2793:2 and 2797:1).

No Land Commission Awards are listed for the *Ahupua'a* of Kaliae in the Indices of Awards (Territory of Hawai'i 1929) or in the Waihona.com data base. Of the 132 awards listed in the Indices for the Ko'olau District, nearly half (60) are located in Wailua; 24% (32) are located in Ke'anae, and 11% (14) are located in Honomanu. The remaining 26 awards are distributed among the *ahupua'a* of Honolulu (5), Makapipi (5), Kapaula (3), Keaa (2), Kolea (1), Kuikai (1), Loiloa (1), Makaiwa (1), Moloa (1), Pakea (1), Pauualu (1), Punaluu (2), Ulaino (1), and Waiahole (1). With the exception of two *ahupua'a* awards, the majority of the *kuleana* in the Ko'olau District are small plots that are concentrated in the large stream valleys that contained extensive *lo'i kalo*; very few *kuleana* were located on upland ridge areas.

The Old Government Road that passes through Grant 1164 appears to be a portion of the first northern Hana Belt Road, which was completed from Hana to near Keanae by 1915. According to a State DOT report, "This road, however, did not link up with the Kailua extension, but instead dead-ended in the Koolau Forest Reserve" (Hawaii Heritage Center 1990: 5). It is quite possible that the Old Government Road follows along or near the route of the pre-contact era

The current Hana Highway route through Kaliae was constructed between 1922 and 1925, and reflects a desire to access the many ditches that were in place through the Ko'olau District at that time (Hawaii Heritage Center 1990: 6). The New Government Road to Hana in this area follows or is close to the pre-existing Ko'olau Ditch Trail.

During the early twentieth century, villages were located at Keanae/Wailua and at Nahiku. Between 1899 and 1915 three rubber companies established 25,000 acres of plantations in the Nahiku region, between the elevations of 300 and 1200 feet (Frederiksen 1998: 9). It is not known whether these plantations extended as far west as Kaliae.

6. Expected Findings

Archival research indicates that there has been an insufficient number of archaeological studies in and around the project area to provide a clear indication of the types and frequencies of expected sites. Historic land use, as indicated in the Land Commission records, suggests that the elevation range and the absence of running water would not have been an ideal location for *lo'i kalo*; on the other hand, when systematic surveys are conducted, the tendency is to find evidence of use (often agricultural) that was not documented in historic records. Many of the minor windward stream valleys on Maui were used for gardens and taro production, although in a less intensive manner than the larger stream valleys.

The project areas are not within valley or gulch area settings; thus, there is little likelihood that irrigated taro patches were present in the affected area. However, given the amount of rainfall in this area, it is possible that remnants of some form of non-irrigated agricultural use could be present. These might consist of dry laid stone terraces along the slope, or buried agricultural soil layers. The extent of modern land grubbing and grading has, however, decreased the likelihood of finding intact surface or subsurface features.

7. Field Survey Methods

The location and extent of the two proposed use areas and road improvement segment was identified in the field with the assistance of the property owner, Mr. David Niehaus. Mr. Niehaus also provided area location maps prepared by a project designer (Figure 5). Both areas were intensively surveyed by walking closely spaced parallel transects oriented *mauka-makai*. Due to the small size of the two use areas, and the poor surface visibility, the surface coverage was quite thorough.

Following the walk-through surveys, subsurface testing in the form of shovel tests was conducted at both areas. A total of 10 shovel tests 0.50 meter in diameter were excavated in the proposed nursery area and three tests were excavated along the crest area at the proposed dwelling site. At the nursery area, shovel tests were set along a 25 meter grid pattern, with the southernmost row of four tests located parallel to and 10 meters north from the MECO power line easement. The second row of four tests was located 25 meters northeast (50 degrees Az) from the first row, and a third row of two tests was located 25 meters northeast from the two westernmost test lines. Due to topographic constraints, as reflected in the shape of the use area (Figure 5), there was not sufficient space to complete the last two tests in the third row.

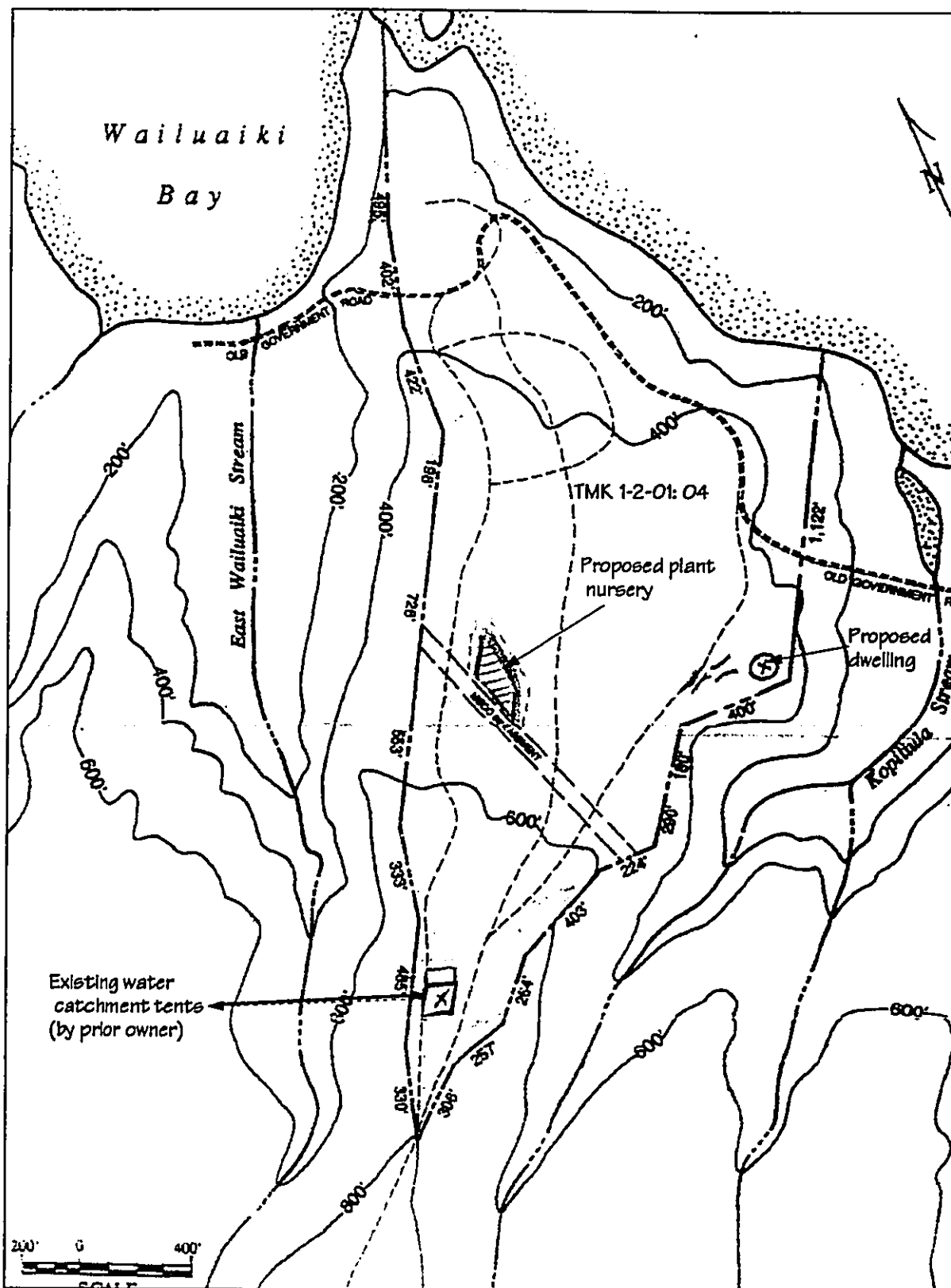


Figure 5. Parcel 04 map showing existing field roads, existing structures, and proposed use areas (map prepared by Interisland Design Group, Inc., Honolulu)

The three shovel tests conducted at the dwelling site were in a single line, oriented with the major axis of the ridge crest. All tests were excavated to the deepest extent possible, which averaged between 0.50 and 0.70 meters. Soil removed from the shovel tests was screened through 1/4 inch mesh in order to locate possible midden or artifact remains, or indications of past use, such as charcoal or unmodified portable remains. The stratigraphic profiles of each shovel test was recorded in tabular format, and soil samples of various layers and lenses were collected for comparative analysis in the laboratory. No additional materials were identified or collected during the subsurface testing.

8. Findings

No evidence of historic properties was found during the surface or subsurface surveys within the two use areas. Shovel testing indicates that Kailua series silty clay is present, with a poorly developed stratigraphy, in both areas. Prior grading and grubbing has removed evidence of a distinctive surface soil layer, and most profiles showed a relatively uniform soil with subtle color and texture changes relative to depth (Table 1). Pieces of soft, decomposing Kula bedrock were seen in the western tests at the nursery area and at the proposed dwelling construction site. Soil was considerably shallower in this latter area, which was previously graded flat by a former owner.

Location	Test No.	Depth	Description
Plant nursery	1	.50 m	Dark yellowish brown (10YR3/6) scl; moderate, medium, subangular peds; slightly hard, firm, slightly plastic; grass roots common to -25 m; no layer boundary
	2	.50 m	Same as ST-1
	3	.45 m	Same as ST-1; weathered basalt pebbles scattered throughout
	4	.50 m	Dark brown (7.5YR3/2) scl; strong, medium, subangular peds; hard, very firm, slightly plastic; grass roots to -25 m; pieces of decomposing bedrock common below -30 m; no layer boundary
	5	.45 m	Same as ST-4
	6	.50 m	Same as ST-4
	7	.55 m	Dark brown (7.5YR3/2) scl; strong, medium, subangular peds; slightly hard, firm, slightly plastic; grass roots to -25 m; no layer boundary
	8	.50 m	Dark brown (7.5YR3/2) scl; strong, medium, subangular peds; slightly hard, firm, slightly plastic; grass roots to -25 m; pieces of decomposing bedrock common below -30 m; no layer boundary
	9	.50 m	Same as ST-8
	10	.50 m	Same as ST-8
Dwelling	11	.25 m	Dark brown (10YR3/4) scl; moderate, fine, subangular peds; slightly hard, friable, slightly sticky, nonplastic; boundary diffuse with bedrock
	12	.40 m	Same as ST-11
	13	.35 m	Same as ST-11

Table 1. Summary of Shovel Tests

9. Recommendations

The archaeological field work and archival review found no indication that the proposed activities at TMK 1-2-01: 04 will impact historic properties. No further archaeological work is recommended within the two proposed use areas at this time.

Information obtained during a cultural impact assessment or during interviews with long-time residents of the area may conflict with this finding; if that is the case, additional research or interviews will be needed to clarify the discrepancies. It is suspected that if historic properties were once present in the proposed use areas, they have been destroyed by prior land use, particularly the extensive grubbing and grading that occurred here in 1993.

The finding that no historic properties will be affected applies only to the two subject use areas, comprising 3.2 acres, and the short section of field road slated for improvement. This finding does not apply to the entire 63-acre property, or to other smaller units within the parcel. If additional use area are identified in the future, it is likely that additional archaeological field survey work will be warranted.

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11. Appendix

SHPD correspondence regarding past land alterations at TMK 1-2-01: 04:

- Memo to Roger Evans, October 28, 1993
- Letter to Glen Ueno, August 3, 1994
- Letter to Glen Ueno, February 15, 1995

IAN WADSWORTH
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
33 SOUTH KING STREET, 8TH FLOOR
HONOLULU, HAWAII 96813

October 28, 1993

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LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

MEMORANDUM

LOG NO: 9739
DOC NO: 9310AG40

TO: Roger C. Evans, Administrator
Office of Conservation and Environmental Affairs

FROM: *Don* Don Hibbard, Administrator

SUBJECT: Historic Preservation Review of CDUA MA-2671 -- Private
Residential Ranch (Fred Levy)
Kaliae, Hana, Maui
TMK: 1-2-1: 4

The applicant proposes to construct a single family residence and several accessory structures. According to this application, this property was used for cattle grazing for many years.

In response to the applicant's consulting architect's request, a field inspection of this property was conducted by Theresa Donham, our staff archaeologist on Maui, on July 20, 1993. Extensive tree grubbing and some grading have occurred over most of the property. The inspection was hindered by rubble piles of trees and boulders. In addition, the entire parcel was not examined due to its large size. The architect did not have a map showing the location of the proposed structures, so we are uncertain whether the areas examined are indeed the proposed construction sites.

The tax map shows an "old road" through this property. The August 11, 1993 letter from Mr. Mike Baker of Na Ala Hele (attached to the EA as Appendix A) indicates that this old road was undoubtedly part of the Piilani trail. Ms. Donham was unable to identify any remains of this site on the level plateau since this area has been grubbed to the edge of the cliff. A cut on the bank along the western edge of the property was noted, but it was not verified whether this was the trail or a drainage cut.

Although no evidence of historic sites was observed and extensive grubbing has occurred, we believe that a systematic archaeological inventory survey of the entire property is necessary to determine if significant historic sites are present. Our staff's inspection

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Roger Evans
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was very limited, and we have received verbal reports that paved sections of the trail were observed on this property. Also, Mr. Baker reported to our staff that a possible platform was seen during his August 8, 1993 inspection.

Therefore, we recommend that the following condition be attached to this permit, if approved:

Prior to the approval of the construction plans, an archaeological inventory survey shall be conducted to identify all significant historic sites, including any remains of the King's Trail. A copy of the final report shall be submitted to the State Historic Preservation Division (SHPD) for review and comments. If significant historic sites are identified, an acceptable mitigation plan shall be submitted to SHPD for approval prior to implementation.

We have also received verbal reports from adjacent residents of grubbing and burning on the property since our field inspection. If these activities are indeed taking place, we are concerned about their adverse effect on historic sites that may be present. We recommend that these activities cease until the archaeological survey is completed.

AG:jén

JOHN WAIHEE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
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DIVISION

LAND MANAGEMENT

STATE PARKS

WATER AND LAND DEVELOPMENT

August 3, 1994

Mr. Glen Ueno
Department of Public Works
Division of Land Use and Codes Administration
250 South High Street
Wailuku, Hawaii 96793

LOG NO: 12333
DOC NO: 9407KD23

Dear Mr. Ueno:

SUBJECT: County of Maui, Historic Preservation Review of the
Boteilho Subdivision (LUCA File No. 1.186)
Kaliae, Hana District, Island of Maui
TMK: 1-2-1: 3

Thank you for the opportunity to review and comment on the preliminary plat for the Boteilho Subdivision. The purpose of the subdivision is to designate an access easement across State land, from Hana Highway to TMK 1-2-01: 4. Width of the easement is shown on the preliminary plat as 12-15 feet. The easement generally follows an existing roadway route, however, deviations from the route occur at six to seven locations along the easement.

The proposed subdivision is within the Ko'olau Forest Reserve, and is zoned Conservation. No known historic sites are present within this parcel, however, no archaeological survey or field inspection of the parcel or easement area has been conducted.

We request that final approval of the subdivision be deferred until State Historic Preservation Division staff has had an opportunity to conduct a field inspection of the easement corridor. If historic sites are present within or near the proposed easement, an inventory survey will be requested by our office, in order to document the sites, determine potential impacts, and recommend appropriate treatment.

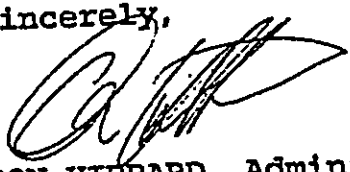
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Mr. Gleno Ueno
Page 2

Further comments will be forwarded to your office as soon as the inspection is completed.

Please contact Ms. Theresa K. Donham at 243-5169 if you have any questions.

Sincerely,



DON HIEBARD, Administrator
State Historic Preservation Division

KD:jen

LIAMIN L. CAYetano
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
STATE HISTORIC PRESERVATION DIVISION
33 SOUTH KING STREET, 6TH FLOOR
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LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

February 15, 1995

Mr. Glen Ueno
Department of Public Works
Division of Land Use and Codes Administration
250 South High Street
Wailuku, Hawaii 96793

LOG NO: 13910 ✓
DOC NO: 9502KD12

Dear Mr. Ueno:

SUBJECT: County of Maui, Historic Preservation Review of the Boteilho Subdivision (LUCA
File No. 1.186)
Kaliae, Hana District, Island of Maui
TMK: 1-2-1: 3

This letter is a follow-up of our previous comments regarding the Boteilho Subdivision in Kaliae. In our initial review of this subdivision, we requested that final approval be deferred until a field inspection of the easement and adjacent areas was conducted.

A field inspection of the easement corridor by Historic Preservation Division staff archaeologist Theresa Donham occurred on February 9, 1995. The inspection occurred after road improvements (grading and filling with crushed lava rock) were completed. Both sides of the roadway corridor were examined, and no evidence of historic sites was identified.

During the inspection, it was noted that construction activities associated with the road extended beyond the limits of the easement, as defined on the preliminary plat map. Areas of grading and crushed rock filling were observed on both sides of the road, beyond the easement boundary. The largest area of fill is approximately 16 x 11.3 m in area, along the north side of the road.

Based on the after-the-fact inspection of the subdivision easement, it appears the work that remained within the limits of the preexisting roadway had no effect on historic sites. We cannot comment on the possible effects that grading and filling outside the old roadway had, since the areas are now covered with rock fill. No evidence of disturbed sites was observed along the edges of the graded and filled areas.

Please contact Ms. Theresa K. Donham at 243-5169 if you have any questions.

Sincerely,


DON HIBBARD, Administrator
Historic Preservation Division

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